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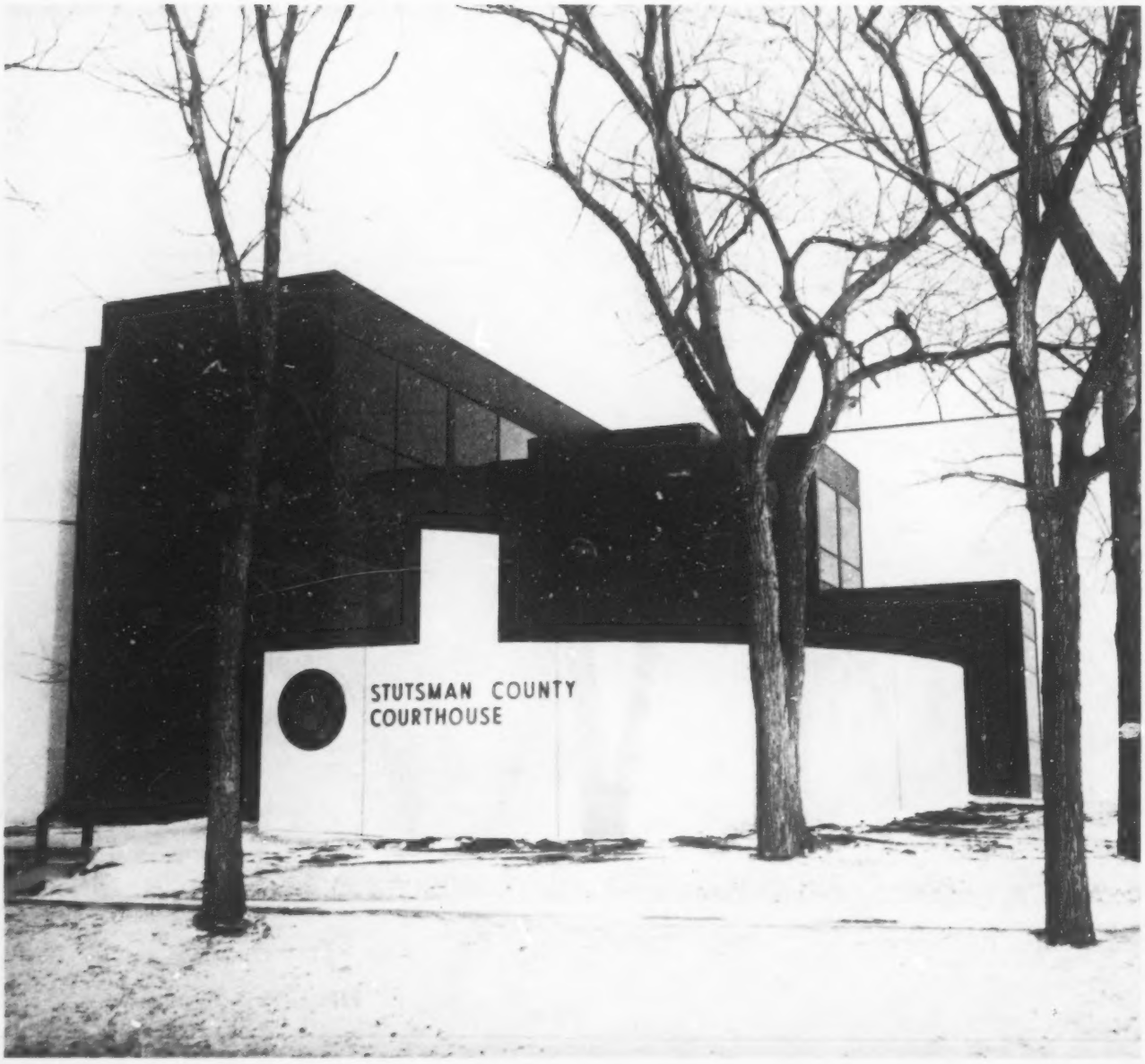
# NORTH DAKOTA JUDICIAL COUNCIL

*Annual Report*
*1982*



State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

WILLIAM G. BOHN
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TO THE HONORABLE CHIEF JUSTICE
AND JUSTICES OF THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA:

TO THE HONORABLE MEMBERS OF THE
NORTH DAKOTA JUDICIAL COUNCIL:

Once again, I am pleased to submit to you the Annual Report of the North Dakota Judicial Council for the period of January 1 through December 31, 1982.

This report highlights the activities of the North Dakota judicial system during 1982. It provides statistical information on our courts and reports on other developments and activities which are shaping our judicial system. It will prove very valuable as a reference source for anyone wishing to learn about the operation of the judicial system in North Dakota.

I take this opportunity to publicly acknowledge the valuable assistance and cooperation extended to me by the judges and court personnel whose reports provided the information contained in the Annual Report. Particular thanks go to the staff of the State Court Administrator's Office for their diligent work in compiling the statistics and designing the format for this work.

Respectfully submitted,

William G. Bohn

WILLIAM G. BOHN
State Court Administrator and
Judicial Council Executive
Secretary

WGB/cs

# In Appreciation

The North Dakota Judicial Council wishes to express its gratitude to Luella Dunn, Clerk of the Supreme Court, for the 35 years of service she has devoted to the state's judicial system.

**Mrs. Luella Dunn, Clerk of Supreme Court**

Luella Dunn was born and raised on a North Dakota farm. Following high school graduation, Lu, as she prefers to be called, worked as a secretary and office manager in the ASCS office in Stanley. In February of 1946, she began working for the State of North Dakota as a secretary for the Social Services Department. She transferred to the Supreme Court on September 1, 1947, to serve as secretary to Chief Justice A.M. Christianson and as Deputy Clerk. Lu has been Clerk of the Supreme Court since October 30, 1968. She is the first woman and only the third person since statehood to serve as Clerk of the Supreme Court. Lu is also Secretary-Treasurer of the State Bar Board and Secretary of the Disciplinary Board and the Judicial Qualifications Commission.

At a meeting in Boston in August of 1982, Lu Dunn was elected President of the National Conference of Appellate Court Clerks for 1982-1983. She served on the Executive Committee of that organization in 1973-1974. Lu also was a member of the Executive Committee and Treasurer of the Bar Admissions Administrators of the National Conference of Bar Examiners during 1978. In 1981 she received a Commendation from the Board of Governors of the State Bar Association for outstanding service to the bar of North Dakota, and in 1983 was selected as Outstanding Woman in the Law by the Law Women's Caucus at the University of North Dakota.

Lu is an elder in the First Presbyterian Church. She is the first woman to serve on the Board of Directors of First Bank of Bismarck and she is on the Board of Directors of United Way of Bismarck. Lu serves as a board member of the North Dakota Rural Rehabilitation Corporation and as Secretary-Treasurer of that board.

Chief Justice Erickstad nominated her for the 1983 National Public Service Award. Recently, she has been chosen to serve on the Board of Directors of the Fund for Rural Justice, a national organization founded to promote justice in the rural community.

Lu is married to Adrian Dunn, who is the Executive Director of the North Dakota Education Association. They have one son, Craig, who teaches in Jamestown, Tennessee.

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# North Dakota's Municipal Courts — An Anachronism

THOMAS A. DAVIES

When the Forty-Seventh Session of the North Dakota Legislature passed House Bill 1060, our judicial branch of government began its unification process.

Despite some criticism from within and without the judiciary, our Supreme Court, State Bar Association, Citizen's Groups and the Legislature have taken giant strides forward in unifying and reorganizing our multi-tiered judicial system, and in the process have modernized and updated all facets of the judicial branch, from salaries, records management, case flow, court facility, to adequate support personnel. Jurisdiction in some courts has expanded, and some courts no longer exist.

Across this State, in fact, not in theory, these changes have brought to the judicial branch deserved respect and the realization that it is a co-equal branch of government and necessarily so, to preserve our system of checks and balances.

One division of our court system which has not been involved in the unification process is the municipal court. The municipal courts were originally included in House Bill 1060; but the thought, consideration, study and impact on the other courts were not accorded to municipal courts. In view of the failure to include the municipal court system in the study and impact process, resistance arose and it was deleted from the bill.

We can no longer overlook our municipal courts, and if our unified court system is to accomplish its purpose, then the municipal courts must be addressed.

Currently in North Dakota we have 153 municipal judges serving 162 municipalities. Bearing in mind that municipal courts, once created, have the same relationship to their municipal branches of government which our State courts have to State government (separate and co-equal), we have 153 judicial branches of government dealing with 162 legislative and executive branches of government, and each judicial branch has to attempt on its own to obtain:

a) Judicial salaries;
b) Furniture, fixtures, and court facilities;
c) Support personnel within the court system; and
d) All other things required for the court to operate efficiently as a court.

We as attorneys and judges know that the average citizen's exposure to court is through our misdemeanor courts, municipal or county, and the impressions gained there may well be their only impression of our judicial system. For this reason and for reasons to follow, I believe our municipal courts must be studied and dramatically changed, or as I suggest, abolished on a planned, consistent basis and absorbed into the State system.

It is a known fact that many cities look upon their courts as revenue producers. These same cities view their judges not as members of a co-equal branch of government, but as a department head, subordinate and inferior to the councils and commissions who fund their operations.

Most municipal courts do not have:

1. facilities for the judge;
2. adequate support personnel;
3. adequate space; and
4. adequate equipment.

Many municipal courts must rely upon police employees to do court work.

In addition, there is no salary scale for municipal judges, and part-time judges who are required to be attorneys are generally paid much less than the prevailing minimum fees paid to new attorneys in their locale when their salary is converted to an hourly rate.

In this day of computers, electronic typewriters, and automated records management, walk through the City halls of the larger cities and go through the offices of the auditor, treasurer, police department, office of mayor and/or council and commissioners and look for computer terminals and automated equipment. Having completed your tour of the executive and legislative branches of city government, take a walk through the court area and make similar observations and you will be left with the inescapable conclusion that the municipal court is not held high in terms of municipal government spending.

Section 40-18-13, NDCC, allows a municipal judge to utilize the sentencing alternatives provided by Section 12.1-32-02, including deferring or suspending sentence on conditions. Little purpose is served in attaching conditions to sentences if the personnel and equipment do not exist to monitor and give the conditions effect.

Laws are currently being studied, i.e. Senate Bill 2373 on Drunk Driving, which would greatly expand the powers and sentencing authority of a municipal judge without staff, uniform records, access to probation officers or court staff to act as probation monitors; the intent of the law will not be served.

To greatly expand municipal court criminal sentencing powers when the defendant has the right of **de novo** appeal will simply result in more duplicate trials through the appellate process and justice delayed. The same trials in a court of record requiring actual appellate process would undoubtedly decrease **de novo** trial through elimination of appeal without reason.

Since all municipal judges are part-time, they have their law practices, and in the case of the non-law trained, their businesses, professions, trades, or occupations to attend to in addition to their judicial responsibilities, which can cause matters of judicial import to receive less than adequate attention.

Part-time prosecutors or no prosecutors at all present an even more acute problem. The situation where there is no city attorney for a municipal court should not be tolerated — but it is. Part-time prosecutors are usually as notoriously underpaid for the time involved in city court matters as are the judges, if not more so, and hence there is inadequate attention to case review and preparation, and a constant turnover across the State, depriving the citizens and the judges of consistent and experienced trial counsel.

The powers of municipal courts (not to be confused with jurisdiction of municipal courts) are limited by law and procedure in such a way as to give them "dummy status".

An Affidavit of Prejudice may be filed at any time before trial commences and automatically disqualifies the judge (Section 40-18-20, NDCC). Unlike courts of record, no provision is made for timely filing, nor even to allow the judge to remain on the case if he has made rulings on pretrial motions, procedures accorded courts

of record (Section 29-15-21, NDCC). In short, orderly procedure is barred at the municipal level.

Compare the contempt power of a municipal judge at a maximum of $100.00 a day fine and one day in jail (Section 40-18-14, NDCC) with the contempt powers of the record courts consisting of a maximum of six months for criminal contempt and a fine in any amount the court deems just (Section 12.1-10-01, NDCC). If the contempt offered a municipal judge is the same as offered a county or district judge, should the response be different?

Consider, if you will, the most recently enacted insult to the judicial system, Section 40-18-18, NDCC (relating only to municipal courts) providing that no appeal, bail, or supersidious bond on a **de novo** appeal may be set by a municipal judge. It is insulting because Rule 37(h) of the North Dakota Rules of Criminal Procedure designated appellate supervision of municipal courts to be in the county courts and such powers include the review of any order of a municipal judge, including that fixing or denying bail. Rule 38(3) of the North Dakota Rules of Criminal Procedure provides that the trial court may require a defendant to deposit fines and costs with the clerk pending appeal or to give bond thereof. Our North Dakota Supreme Court is by statute given the power to promulgate rules of procedure (Section 27-02-08, NDCC) and has acted in the area of bond. The Legislature is preempted by statute (Section 27-02-09, NDCC) and even if it weren't, does it make sense that a municipal judge can require an appearance bond before trial, before the question of guilt or innocence has been determined, but after trial and conviction, must, upon demand by the defendant, restore such bond and not be able to continue the same for the appearance in the appellate court if **de novo** appeal is filed.

**De novo** appeal allowing an appeal without specifying a reason, a reason not being required because municipal courts are not courts of record, is time consuming, unnecessary, and expensive in this day and age. The prohibition against reporting criminal traffic convictions to The Motor Vehicle Department while an appeal is pending is alone sufficient to study this antiquated system so long as a **de novo** appeal from municipal court is allowed.

It is clear that the needs of the municipal judiciary are not known and if known, not accepted or understood. Misdemeanor judges need a voice. People are entitled to the best system of justice this State can provide, and at the municipal level there is a weakness that cries for attention that basically cannot be addressed under the current system which gives each of the 162 cities the power of the purse over each of the 153 judges.

It has been suggested that municipal courts should become courts of record, but there have been no studies indicating what cost would be involved, what equipment and personnel would be required, and how each of the judges would be able to convince each of the cities that they must provide essential court items.

Few law trained municipal judges were contacted about the idea of municipal courts becoming courts of record. If they had been, many of them would have simply stated that they could not devote the time which would have been required of part-time judges to preside as judges of record in both jury and nonjury settings.

Simply put, even if municipal courts had become courts of record, there were no provisions to provide the individual judges in each municipality with a uniform voice to fill court needs.

The current system of police personnel acting as court employees in many municipal courts violates the separation of powers and gives an appearance of impropriety to those who require that it be known **that the court is not just an extension of the police department**. Records and reports at the municipal level are as confidential and deserve the same protection as records of other courts which require protection.

The problems I have outlined here are but a few of those faced across this State by our municipal judges. There can be no proper solution to these problems so long as we have our current fragmented municipal court system. I recommend the elimination of the municipal court system as we currently know it, and its absorption into the unified State court system. Whether we have more county judges to handle the municipal matters or implement a State municipal system of fewer in number, but full-time judges, I cannot say.

The State of Minnesota successfully faced the same challenge with their municipal court system by abolishing it and absorbing it into the county system by increasing the number of county judges. To overcome the resistance which might have otherwise come from the respective cities because of loss of revenue from court operations, a formula was devised whereby a certain percentage of any revenues derived through court operations because of violations of city ordinance would go back to the cities on a pro rata basis.

Individual municipal judges in this State may not like this proposal since they would in some cases be deprived of job, status, or additional income. A change is required, however; the system simply cannot work properly so long as there is no uniform standard to enable our courts to exist and function as courts.

We have made great strides forward with our unified judicial system, let us now take this last step. We must implement a study which will result and truly bring the current antiquated municipal court system into the twentieth century. I referred in the title of this article to our courts as being an anachronism. An anachronism is by one of its definitions, "A thing from a former age that is unsuitable in the present." All of the courts of this State should be real courts. We must: have a uniform system of powers and responsibilities for all judges; have a uniform system of appeals; make all of our courts courts of record; and provide our citizens the system of justice they are entitled to. To give this State's judicial branch of government true co-equal status and to make it truly unified, steps must be taken at the municipal level.

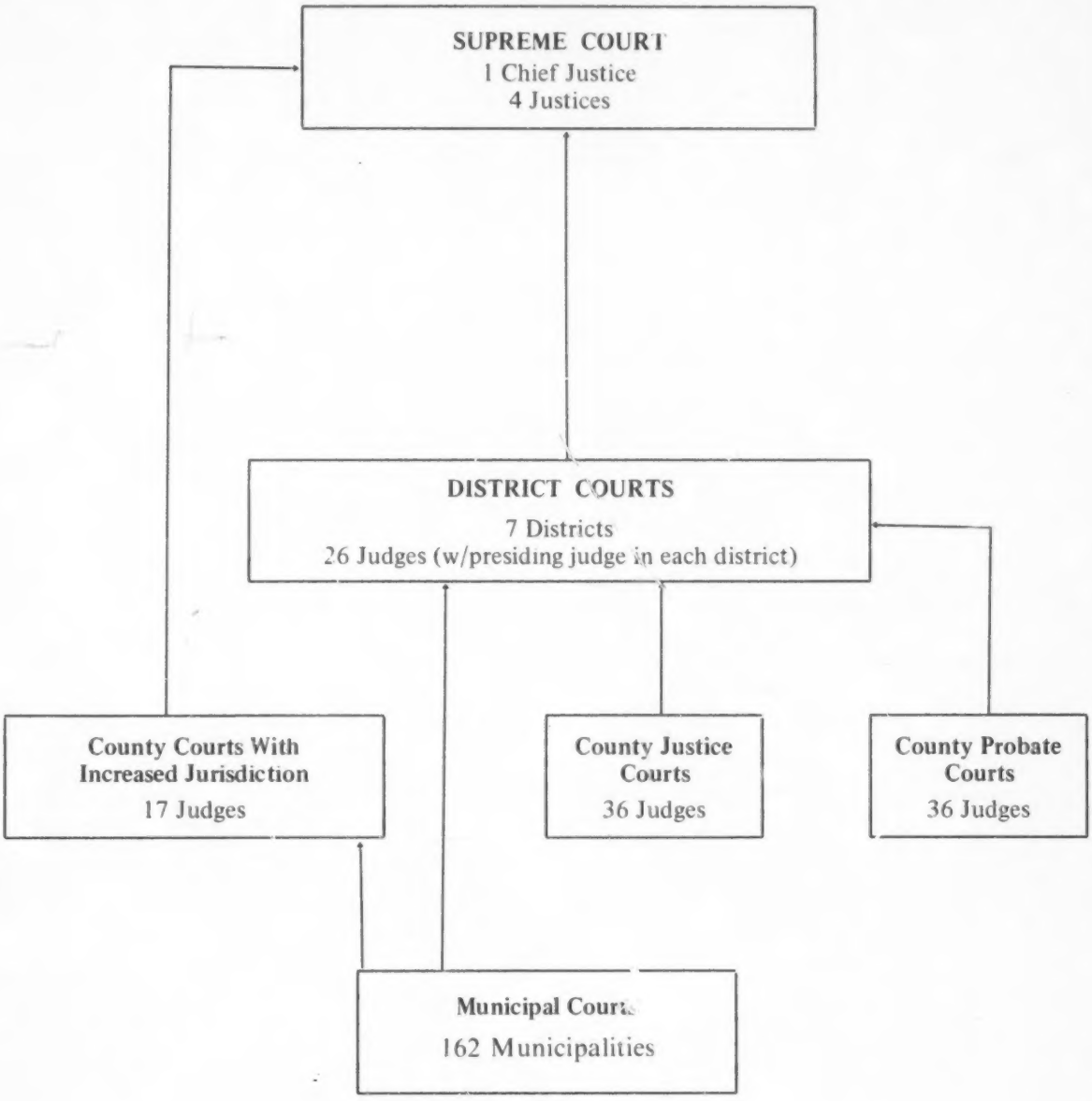
I have been a municipal judge in North Dakota's largest city since 1972. I am fully aware of the contributions our municipal judges have made across this State and this article is in no way intended to constitute a criticism of them. My tenure, however, places me in a unique position to observe the many weaknesses of the municipal court system and qualifies me at a minimum to state my opinion. It goes without saying that my suggestions do not constitute the only solution; they are food for thought. It is hoped that this article, whether or not well received, will constitute and operate as a trigger mechanism for an intense study of the municipal system, its strengths and weaknesses, which will result in such changes as are necessary to truly make municipal courts an actual and functioning division of our unified court system.

## ABOUT THE AUTHOR

**Judge Davies has been the municipal judge for the city of Fargo since 1972. He has been an active participant in numerous judicial and bar organizations. He is a former member of the North Dakota Judicial Council, a former state delegate to the National Conference of Special Court Judges, and a past chairman of the State Bar Association's Ethics Committee. He is currently a member of the American Bar Association, the Cass County Bar Association, and the American Judicature Society.**

FIGURE 1

# The Court Structure of the North Dakota Judicial System



# A Profile of the North Dakota Judicial System

**Structure of the Court System**

The original constitution of the State of North Dakota created a judicial system consisting of the supreme court, district courts, justice of the peace courts, and such municipal courts as provided by the legislature. This judicial structure remained intact until 1959 when the Legislature abolished the justice of peace courts in the state.

The adoption of a revamped judicial article to the state constitution in 1976 significantly modified the constitutional structure of the judicial system. The new judicial article vested the judicial powers of the state in a unified judicial system consisting of a supreme court, district courts, and such other courts as provided by law. Thus, under the new judicial article, only the supreme court and the district courts have retained their status as constitutional courts. All other courts in the state are statutory courts.

In 1981 the Legislature further altered the structure of the judicial system by enacting legislation which replaces the present multi-level county court structure with a uniform system of county courts throughout the state. This new county court structure becomes effective on January 1, 1983.

Once the new county court system is in place, the judicial system of the state will consist of the supreme court, district courts, county courts, and municipal courts. Figure 1 provides a diagram of the present court structure of the North Dakota judicial system.

**Administrative Authority**

In addition to these structural changes, the new judicial article clarified the administrative responsibilities of the supreme court by designating the Chief Justice as the administrative head of the judicial system and by granting the Chief Justice the authority to assign judges for temporary duty in any nonfederal court in the state. It also acknowledged the supreme court's rulemaking authority in such areas as court procedure and attorney supervision. A diagram of the administrative structure of the North Dakota judicial system is presented in Figure 8.

**Selection and Removal of Judges**

All judges in North Dakota are elected in nonpartisan elections. Justices of the supreme court are elected for ten-year terms; district court judges for six-year terms, and all other judges for four-year terms.

Vacancies in the supreme court and the district courts can be filled either by a special election called by the governor or by gubernatorial appointment. However, before a vacancy can be filled by gubernatorial appointment, the Judicial Nominating Committee must first submit a list of nominees to the governor from which the governor makes an appointment. Whether the vacancy is filled by a special election or by appointment, the person filling the judicial vacancy serves only until the next general election. The person elected to the office at the general election serves for the remainder of the unexpired term.

Vacancies in the various county courts are filled by the board of county commissioners of the county where the vacancy occurs. Similarly, if a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

Under the North Dakota Constitution only supreme court justices and district court judges can be removed from office by impeachment. All judges, however, are subject to removal, censure, suspension, retirement or other disciplinary action for misconduct by the supreme court upon the recommendation of the Judicial Qualifications Commission. Other methods for the retirement, removal and discipline of judges can be established by the legislature.

**Caseload Overview**

Generally, the caseloads of the various types of courts in the state are stabilizing. Case filings in 1982 are at the same level they were in both 1979 and 1981, but below the apex reached in 1980 by approximately 10 percent. In essence, the overall stabilization of new filings can be attributed to the stabilization of traffic cases in the limited jurisdiction courts. Other types of cases continue to increase, although at a much slower rate than in previous years.

Dispositions have followed the same pattern as filings. Again, the stabilizing influence of traffic cases processed by the limited jurisdiction courts is responsible for this result. As a general rule, non-traffic dispositions have continued to increase.

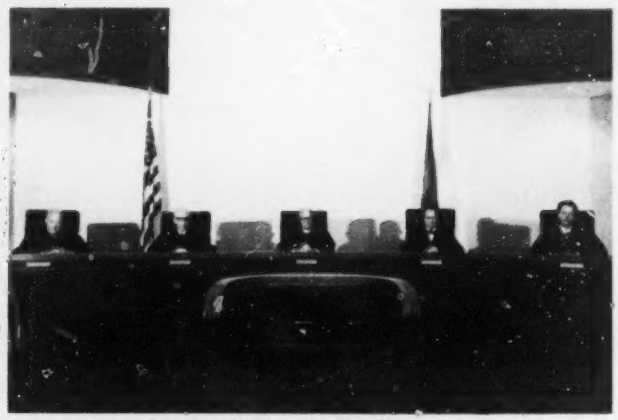
Because dispositions continue to lag behind filings, the number of cases pending at the end of the year also continues to grow.

Table 1 provides a general overview of the primary caseload components for the different levels of court for the last two years. A more detailed analysis of the caseloads of specific courts for 1981 and 1982 is provided in other parts of this report.

**TABLE 1**
**A CASELOAD COMPARISON OF NORTH DAKOTA COURTS**
**FOR THE 1981 AND 1982 CALENDAR YEARS**

| Level of Court | Filings | | Dispositions | | Pending at Year's End | |
|---|---|---|---|---|---|---|
| | 1982 | 1981 | 1982 | 1981 | 1982 | 1981 |
| Supreme Court | 308 | 309 | 310 | 280 | 152 | 154 |
| Courts of General Jurisdiction | 16,244 | 15,044 | 15,557 | 15,050 | 6,439 | 5,752 |
| Courts of Limited Jurisdiction | 152,252 | 153,351 | 150,835 | 151,519 | 18,730 | 17,313 |
| **TOTAL** | **168,804** | **168,704** | **166,702** | **166,849** | **25,321** | **23,219** |

# Supreme Court of North Dakota



*Left to right: Justice William L. Paulson; Justice Vernon R. Pederson; Chief Justice Ralph J. Erickstad, Justice Paul M. Sand: and Justice Gerald W. VandeWalle.*

The North Dakota Supreme Court has five justices. Each justice is elected for a ten-year term in a nonpartisan election. The terms of the justices are staggered so that only one judgeship is scheduled for election every two years. Each justice must be a licensed attorney and a citizen of the United States and North Dakota.

One member of the supreme court is selected as chief justice by the justices of the supreme court and the district court judges. The chief justice's term is for five years or until his elected term on the court expires. The chief justice's duties include presiding over supreme court conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court is the highest court for the State of North Dakota. It has two major types of responsibilities: (1) adjudicative and (2) administrative.

In its adjudicative capacity, the supreme court is primarily an appellate court with jurisdiction to hear appeals from decisions of the district courts and the county courts with increased jurisdiction. All appeals from these courts must be accepted for review by the court. In addition, the court also has original jurisdiction authority and can issue such original and remedial writs as are necessary to exercise this authority.

The state constitution requires that a quorum, composed of a majority of the justices, is necessary before the court can conduct its judicial business. It also stipulates that the court cannot declare a legislative enactment unconstitutional unless four of the justices so decide. When the court decides an appeal, it is required to issue an opinion stating the rationale for its decision. Any justice disagreeing with the majority decision may issue a dissenting opinion which explains the reasons for the disagreement with the majority.

In its administrative capacity, the supreme court has major responsibilities for ensuring the efficient and effective operation of all nonfederal courts in the state, for maintaining high standards of judicial conduct, for supervising the legal profession, and for promulgating procedural rules which allow for the orderly and efficient transaction of judicial business. Within each area of administrative responsibility, the court has general rulemaking authority.

The court carries out its administrative responsibilities with the assistance of various committees and boards. It exercises its authority to admit and license attorneys through the State Bar Board. Its supervision of legal ethics is exercised through the Disciplinary Board of the Supreme Court and its supervision of judicial conduct is exercised through the Judicial Qualifications Commission. Continuing review and study of specific subject areas within its administrative jurisdiction is provided through four advisory committees-the Joint Preocedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee and the Court Services Administration Committee. Other committees, such as the Judicial Planning Committee and the Special Committee on Judicial Training, also provide valuable assistance to the supreme court in important administrative areas.

Administrative personnel of the supreme court also play a vital role in helping the court fulfill its administrative functions. The clerk of the supreme court supervises the calendaring and assignment of cases, oversees the distribution and publication of supreme court opinions and administrative rules and orders, and decides certain procedural motions filed with the court. The state court administrator assists the court in the preparation of the judicial budget, prepares statistical reports on the workload of the state's courts, provides for judicial educational services, and performs such other administrative duties that are assigned to him by the supreme court. The state law librarian supervises the operation of the state law library and serves as bailiff of the court when the court is in session.

# The Workload of the Supreme Court

*by Luella Dunn, Clerk of the Supreme Court*

How much will the caseload of the North Dakota Supreme Court increase in this decade, 1980-1990? Will it equal or exceed the 384% of the last decade? Will the criminal caseload continue to grow at an alarming rate? Will the Supreme Court be able to clear its docket by September, 1983, making it the ninth consecutive year? These are questions facing the justices and staff of the Supreme Court.

Records for 1982 show that the Supreme Court averaged 51 days from hearing to decision in civil cases and 45 days in criminal cases or an average of approximately one and a half months.

While new filings in civil cases reflect a slight decrease, criminal case filings increased 41.5%.

Total dispositions by the court during 1982 increased 10.7% with the criminal case category reflecting a rise of 59.3%.

Cases pending at the close of 1982 are slightly less than on December 31, 1981.

## TABLE 2
## CASELOAD SYNOPSIS OF THE SUPREME COURT FOR 1981 AND 1982 CALENDAR YEAR

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **308** | **309** | **- .3** |
| Civil | 216 | 244 | -11.5 |
| Criminal | 92 | 65 | 41.5 |
| Filings Carried over from Previous Calendar Year | **154** | **125** | **23.2** |
| Civil | 118 | 95 | 24.2 |
| Criminal | 36 | 30 | 20.0 |
| Total Cases Docketed | **462** | **434** | **6.5** |
| Civil | 334 | 339 | - 1.5 |
| Criminal | 128 | 95 | 34.7 |
| Dispositions | **310** | **280** | **10.7** |
| Civil | 216 | 221 | - 2.3 |
| Criminal | 94 | 59 | 59.3 |
| Cases Pending as of December 31 | **152** | **154** | **- 1.3** |
| Civil | 118 | 118 | 0.0 |
| Criminal | 34 | 36 | - 5.6 |

All cases are monitored by the Clerk of the Supreme Court for compliance with the time prescribed by the rules. The full time to perfect an appeal in a civil case is 180 days from the filing of the Notice of Entry of Judgment in the trial court to filing the record and briefs in the Supreme Court. In criminal cases the time allowed by the rules is 130 days. In 1982 the average actual time to perfect an appeal in a civil case was 167 days, or 13 days less than the rules allow. In criminal cases the average actual time per case was 152 days, or 22 days more than the rules prescribe. This record represents a maximum effort by the lawyers of this state and the judicial support staff.

Total dispositions in 1982 numbered 310 and include cases dismissed by stipulation as well as cases in which opinions were filed. The North Dakota Constitution, Article VI, Section 5, provides that the Supreme Court must file decisions in all cases which state in writing the reasons for reversing, modifying or affirming judgments or orders. The following table provides a breakdown of dispositions for 1982.

## TABLE 4
## DISPOSITIONS — 1982

| | Civil | Criminal |
|---|---|---|
| Affirmed; Modified and Affirmed | 93 | 42 |
| Reversed; Reversed and Remanded; Reversed and Modified | 37 | 15 |
| Affirmed in Part and Reversed in Part | 9 | 1 |
| Remanded | 2 | 0 |
| Certified Questions of Law Answered | 1 | 0 |
| Dismissed | 61 | 27 |
| Discipline Imposed | 2 | 0 |
| Original Jurisdiction - Granted | 0 | 1 |
| Original Jurisdiction - Denied | 11 | 8 |
| | 216 | 94 |

In order to save judge hours spent on routine administrative matters, the Supreme Court in 1979, acting under the provisions of Article VI, Section 3, of the Constitution, adopted a rule authorizing the Clerk to act on motions such as requests to extend the time for filing briefs or transcripts, to consolidate cases, to enlarge time for oral argument, to file briefs in excess of the prescribed number of pages, to direct correction of the record upon agreement of counsel and the trial judge or to make assignments of district judges plus other routine procedural motions. During 1982 action by the Clerk under this rule was exercised in 379 matters. It should be noted the Clerk acts under the authority of the Supreme Court and the supervision of the Chief Justice. Other requests totaling 197 were disposed of administratively by the Chief Justice and the Clerk.

The justices of the Supreme Court spent 66 days in Court hearing oral arguments in 229 cases.

The current members of the Supreme Court are Chief Justice Ralph J. Erickstad, Justice William L. Paulson, Justice Vernon R. Pederson, Justice Paul M. Sand and Justice Gerald W. VandeWalle. In the November 1982 general election, Chief Justice Erickstad was elected to his third ten-year term as a Justice of the Supreme Court. He was subsequently chosen by the district and supreme court judges to serve another five-year term as Chief Justice, a position he has held since 1973.

## TABLE 3 COMPARISON OF THE TIME PRESCRIBED IN THE RULES FOR PERFECTING AN APPEAL AND THE ACTUAL TIME USED (IN DAYS)

| | Prescribed by Rules | | Average Actual Time 1980 | | Average Actual Time 1981 | | Average Actual Time 1982 | |
|---|---|---|---|---|---|---|---|---|
| | Civil | Criminal | Civil | Criminal | Civil | Criminal | Civil | Criminal |
| From filing Entry of Judgment to filing Notice of Appeal | 60 | 10 | 49 | 13 | 40 | 12 | 43 | 10 |
| From filing Notice of Appeal to filing of Complete Record | 50 | 50 | 36 | 53 | 39 | 45 | 45 | 53 |
| From filing of Complete Record to filing Appellant's Briefs | 40 | 40 | 41 | 61 | 48 | 46 | 46 | 49 |
| From filing Appellant's Briefs to filing Appellee's Briefs | 30 | 30 | 32 | 36 | 34 | 31 | 33 | 40 |
| From At Issue (case ready for calendaring) to Hearing | N/A | N/A | 41 | 35 | 52 | 47 | 46 | 46 |
| From Hearing to Decision | N/A | N/A | 77 | 32 | 46 | 36 | 51 | 45 |

# District Courts

There is a district court in each of the state's fifty-three counties. They have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal felony cases and have concurrent original jurisdiction with the county courts of increased jurisdiction in all criminal misdemeanor cases.

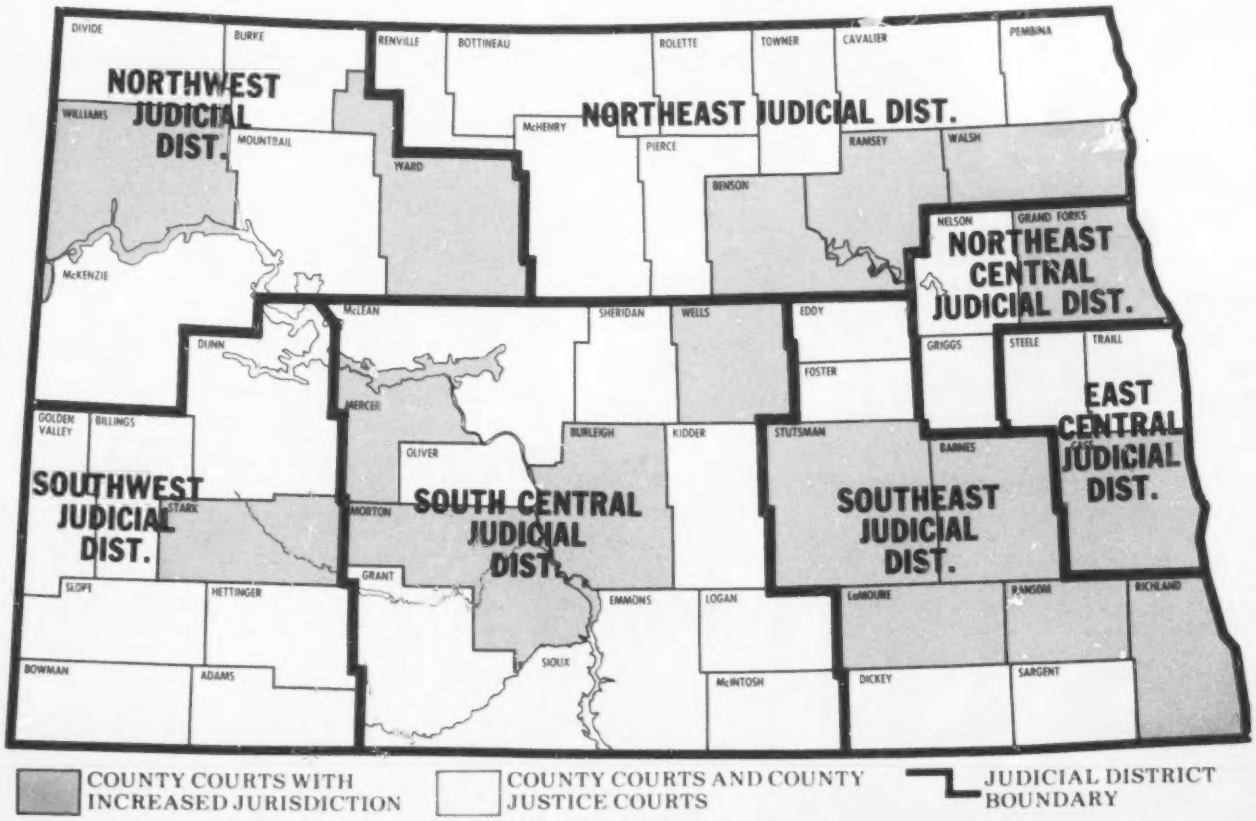
The district courts also serve as the juvenile courts in the state. Under Chapter 27-20, NDCC, which enacted the Uniform Juvenile Court Act, the juvenile court has exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived. This jurisdiction was expanded in 1981 when the Legislature adopted legislation granting the juvenile court jurisdiction over all cases where a female minor is seeking judicial authorization to obtain an abortion without parental consent. District court judges serve as the designated judges of juvenile court. They may appoint juvenile supervisors, referees, probation officers, and other support personnel to assist them in their juvenile court functions.

In addition, the district courts are also the appellate courts of first instance for appeals from county justice courts, county probate courts, and those municipal courts where there is no county court with increased jurisdiction in the county. Appeals from the decisions of many administrative agencies also are heard in the first instance by the district courts. While administrative appeals involve a review of the record of the administrative proceeding by the district court, appeals from the limited jurisdiction courts involve a complete "retrial" of the case by the district court.

In 1979 the supreme court divided the state into seven judicial districts. In each judicial district there is a presiding judge who acts as the chief judicial administrator for the district. All presiding judges are appointed by the chief justice with the approval of the supreme court. The duties of the presiding judge, as established by the supreme court, include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases among the judges of the district, and assigning judges within the judicial district in cases of demand for change of judge.

With the addition of two new judgeships in 1981, there are now twenty-six district judges in the state. The South Central Judicial District and the Northwest Judicial District each have five judges, the East Central Judicial District has four judges, and each of the remaining four judicial districts has three district judges. All district court judges are required by the state constitution to be licensed North Dakota attorneys, and citizens of the United States and North Dakota.

FIGURE 2
NORTH DAKOTA'S JUDICIAL DISTRICTS



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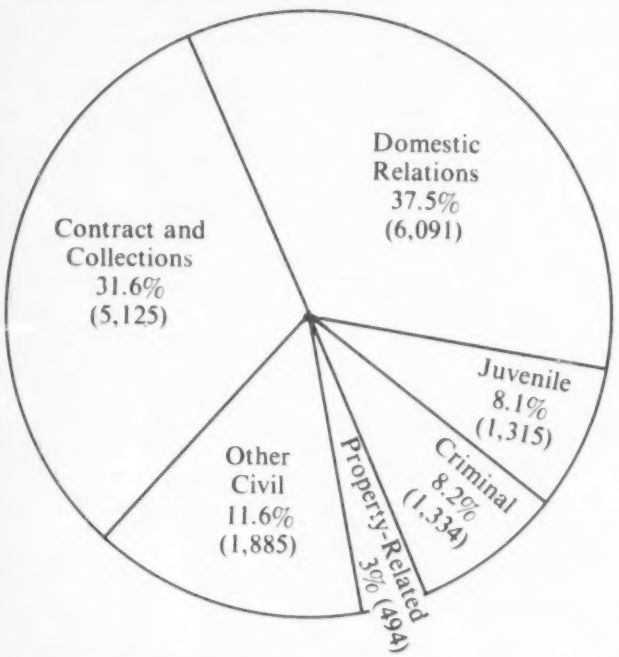
# District Court Caseload

The district court caseload has three major components: 1) civil; 2) criminal; and 3) juvenile. Of these components, the civil component is by far the largest. Nearly 84 percent of all cases filed in the district courts in 1982 were civil cases. Criminal and juvenile cases together comprised a little over 16 percent of all cases filed with the district courts in 1982. It should be noted that the composition of 1982 new filings is very similar to the composition of new filings in 1980 and 1981. A more complete breakdown of the various types of cases filed in the district courts during 1982 is provided in Figure 3.

## FIGURE 3

### TYPES OF CASES FILED IN THE DISTRICT COURTS DURING THE 1982 CALENDAR YEAR




Within the civil component, domestic relations cases were the largest category. They constituted approximately 45 percent of all civil filings. Of the domestic relations cases, divorce cases and child support cases were the most numerous. Over 44 percent of the domestic relations cases were divorce cases and 41 percent were child support cases. The remaining domestic relations cases included adoption cases (8%), paternity cases (5%), adult abuse cases (1%), and custody cases (1%).

Contract and collection cases also constituted a large portion of the district courts' caseload. They comprised nearly 32 percent of all filings and 38 percent of civil filings.

Of the criminal cases, 91 percent were felony cases and 9 percent were misdemeanor cases.

Although the district court caseload continues to grow, it is growing at a much slower pace than it has in previous years. The differences in growth among the districts was also less in 1982 than in 1981. In contrast to 1981, no district experienced a decline in its new filings. The Southwest District again experienced the greatest increase, nearly 32 percent, in new filings. Much of this increase seems due to the demographic and economic changes which have accompanied the development of the energy industry in the district. This growth, however, is expected to level off as energy development in the area stabilizes to reflect world market conditions.

Part of the increase in judicial productivity can be attributed to the two new district court judges added in July, 1981. Some of the increase may also reflect the impact of the docket currency standards for district judges.

Because the number of new filings in 1982 exceeded the number of dispositions, the number of cases pending at the end of the year increased. In 1981 the reverse occurred. Whereas in 1981 four judicial districts registered decreases in the number of cases pending at the end of the year, only two judicial districts recorded decreases in 1982.

## TABLE 5

### A COMPARISON OF THE DISTRICT COURTS' CASELOADS FOR CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **16,244** | **15,044** | **8.0** |
| Civil | 13,595 | 12,465 | 9.1 |
| Criminal | 1,334 | 1,330 | 0.3 |
| Juvenile | 1,315* | 1,249 | 5.3 |
| Cases Carried Over From Previous Year | **5,752** | **5,758** | **-0.1** |
| Civil | 5,454 | 5,462 | -0.1 |
| Criminal | 298 | 296 | 0.7 |
| Juvenile | 0 | 0 | 0 |
| Total Cases Docketed | **21,996** | **20,802** | **5.7** |
| Civil | 19,049 | 17,927 | 6.3 |
| Criminal | 1,632 | 1,626 | 0.4 |
| Juvenile | 1,315 | 1,249 | 5.3 |
| Dispositions | **15,557** | **15,050** | **3.4** |
| Civil | 12,984 | 12,473 | 4.1 |
| Criminal | 1,258 | 1,328 | -5.3 |
| Juvenile | 1,315 | 1,249 | 5.3 |
| Cases Pending as of December 31 | **6,439** | **5,752** | **11.9** |
| Civil | 6,065 | 5,454 | 11.2 |
| Criminal | 374 | 298 | 25.5 |
| Juvenile | 0 | 0 | 0 |

**Because separate data on juvenile filings are not collected, juvenile dispositions have been used as an indicator of juvenile filings. Since juvenile cases are disposed of rapidly, any discrepancy between filings and dispositions is very small.*



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# Civil Caseload

Both civil filings and dispositions continued to increase in 1982. Civil filings increased by 9 percent in 1982 as compared to 5 percent in 1981 and civil dispositions increased by 3 percent in 1982 as compared to 10 percent in 1981. All judicial districts experienced increases in civil filings and five of the seven districts also increased their dispositions in 1982. For the most part, there was little variation in the percentage of change between 1981 and 1982 among the districts. The major exception to this was the 36 percent increase in civil filings in the Southwest Judicial District. As noted earlier, this increase in the Southwest Judicial District reflects the population and economic growth accompanying the exploration of oil and gas resources in the area.

Most civil cases in 1982, as in previous years, were uncontested and did not involve a trial. Only 15 percent of all civil dispositions involved a trial. Of those cases tried, 96 percent were court trials and 4 percent jury trials. The jury trials were evenly split between six person and twelve person juries.

After a minor decrease in 1981, the number of pending cases at the end of the year rose again in 1982. This rising trend in pending cases reflect the fact that judicial productivity has not kept abreast of new filings in the civil arena. It also seems to reflect an increase in more complex lawsuits, such as malpractice suits, which take longer to process than most civil cases.

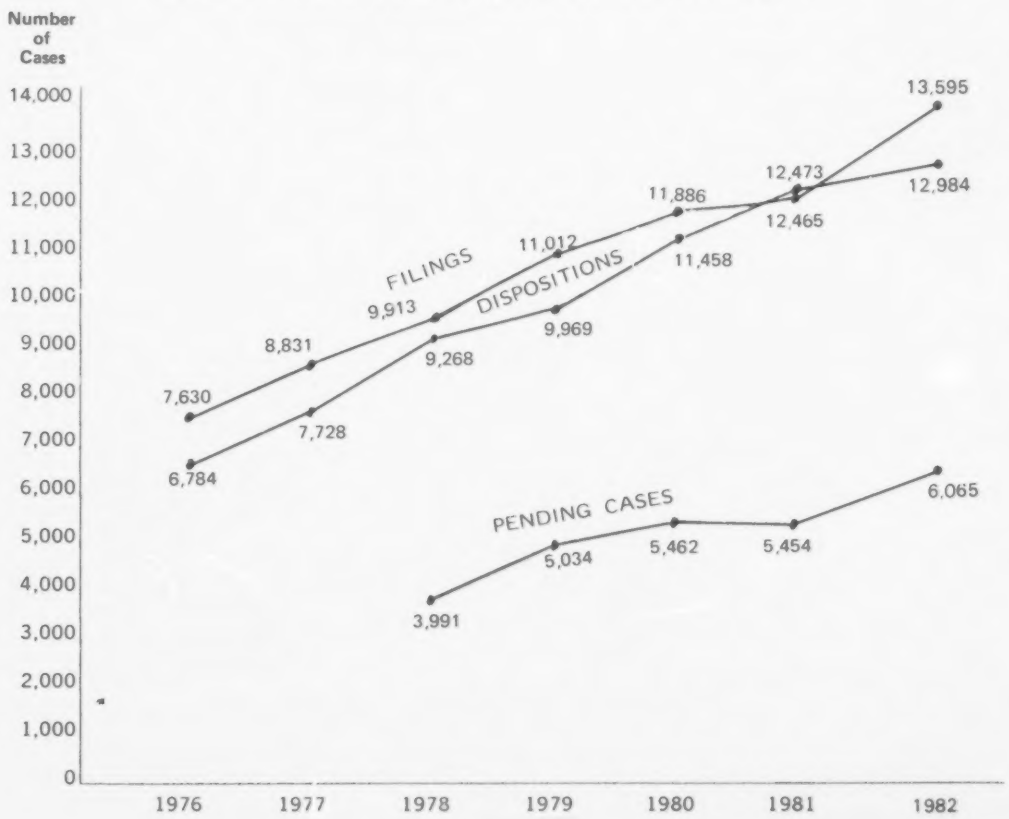
The age of pending cases is also an important indicator of how well district courts are coping with their caseloads. Its importance for the district courts increased in 1980 when the supreme court established uniform docket currency standards for all district courts in the state. These standards require disposition of civil cases within 24 months of filing and within 90 days of a terminated trial. Certain types of civil cases, such as trust cases and support proceedings, are exempt from these standards because the time required to process them is unusually long and often unpredictable. The standards can also be waived for specific cases by the presiding judge of the district or the chief justice if a district court judge can demonstrate good cause for the waiver.

Excluding trust and support proceedings, which constitute about 18 percent of all pending civil cases, only 3 percent of the civil cases pending at year s end in 1982 were more than two years old. This marks a slight improvement over 1981. At the end of 1981 over 5 percent of the pending cases were older than two years. These statistics demonstrate a concentrated effort on the part of the district court judges to comply with the docket currency standards and to keep their calendars current.

Figure 4 gives a graphical representation of the relationship among civil filings, dispositions, and pending cases since 1976.

FIGURE 4

CIVIL CASELOAD COMPARISON FOR DISTRICT COURT



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# Criminal Caseload

The way in which criminal cases are counted and reported varies from state to state. In North Dakota the criminal case statistics are reported and counted on an individual case basis rather than an individual defendant basis. As a result, if multiple defendants are listed together under one case heading, the matter is counted as one case unless the trial court decides to separate the defendants and try them separately.

Prosecution of most criminal defendants in North Dakota begin with the filing of a criminal information by the state's attorney. Although indictment by grand jury is permitted, it is rarely used. The preliminary hearings in felony cases are conducted by county justices or county court of increased jurisdiction judges. If the defendant is not released after the preliminary hearing, he is then bound over to the district court for trial.

After increasing dramatically in 1980, criminal filings have tapered off. Only two districts recorded significant increases in criminal filings in 1982. Likewise, significant decreases occurred in only two districts.

In contrast, criminal dispositions have shown a modest decrease in 1982. Substantial decreases in criminal dispositions occurred in three districts. These same three had also recorded decreases in both criminal filings and dispositions in 1981. This may suggest that criminal activity in these districts has been curtailed by more effective law enforcement.

Most criminal cases (76%) were disposed of without a trial. Jury trials were held in 72 cases and court trials in 235 cases in 1982. Although this represents a significant increase (25%) from the 45 jury trials and 200 court trials in 1981, it varies little from the number of trials (308) held in 1980. Since the criminal caseload has remained remarkably stable between 1980 and 1982, one would have expected little fluctuation in the number of trials. One factor which may account for the variation in 1981 would be a greater number of longer than average criminal trials in 1981. Another factor may be the shifting allocation of criminal cases among the various districts.

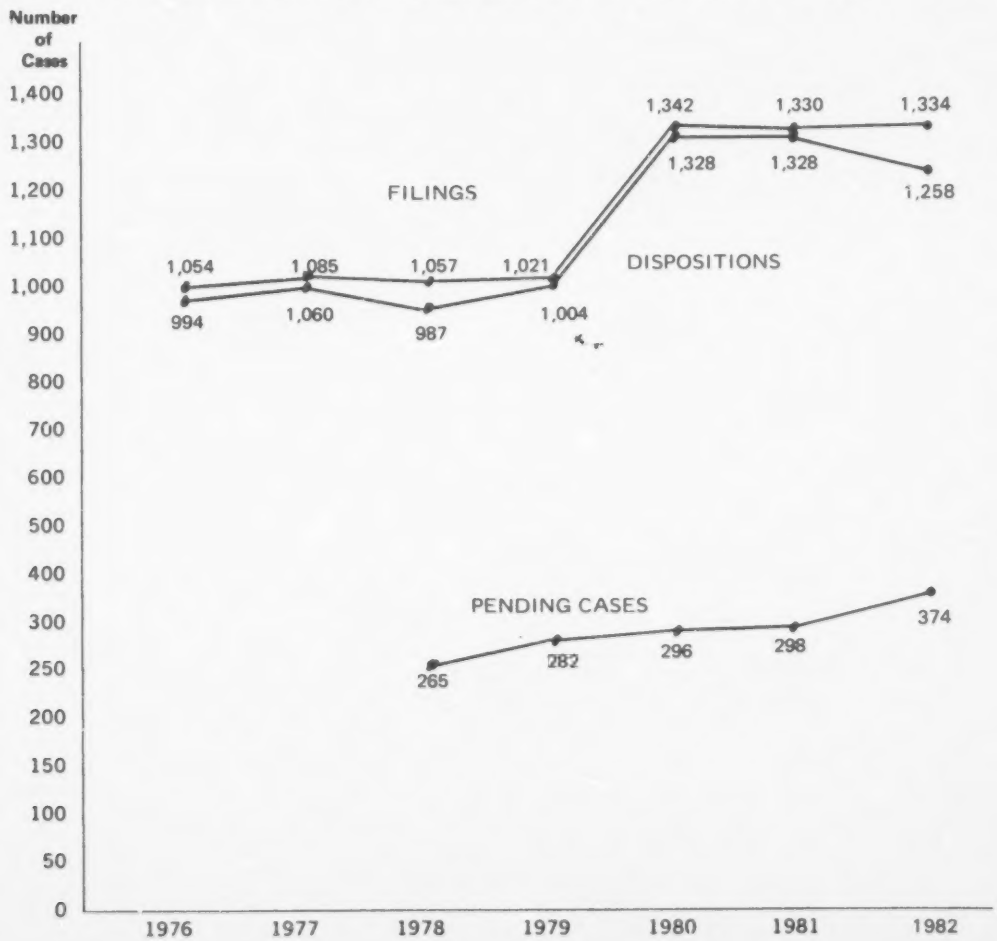
The number of criminal cases pending at the end of the year increased significantly in 1982. This reflects the fact that criminal filings exceeded criminal dispositions by larger margins than have been true in the past.

The portion of pending criminal cases over the 120 day dispositional set by the docket currency standards has also increased. At the end of 1982, 37 percent of the pending criminal cases had been pending for longer than 120 days. By comparison, only 28 percent of the criminal cases pending at the end of calendar year 1981 were older than 120 days.

Figure 5 presents a graph showing the various trends for criminal filings, dispositions and pending cases since 1976.

FIGURE 5

CRIMINAL CASELOAD COMPARISON FOR DISTRICT COURT



# Juvenile Caseload

The vast majority of juvenile cases are handled informally. However, before any juvenile case can be adjudicated informally, the juvenile must admit to the charge. If there is no voluntary admission to the offense, then the case is handled formally. With formal action, a petition is filed in the district court and a formal hearing is held within thirty days of the filing of the petition unless the district judge grants a request for an extension. Formal proceedings have priority over informal proceedings.

Of the informal proceedings conducted in 1982, approximately 33 percent were disposed of by counseling the juvenile and adjusting the matter with no term of probation. Thus some type of supervision was provided by the juvenile courts in 67 percent of the informal proceedings.

As Figure 6 illustrates, all three juvenile caseload components increased in 1982. For the most part, this increase was due to a substantial increase in juvenile dispositions in the South Central Judicial District and a modest increase in the East Central Judicial District. In the South Central District a change in the way referrals are processed is largely responsible for the tremendous jump in juvenile dispositions. Before 1982, many juvenile offenders went to the Police Youth Bureau for processing rather than to the juvenile court. Beginning in 1982, however, juvenile offenders who were previously sent to the Police Youth Bureau were being referred to juvenile court. Part of the general increase in juvenile cases throughout the state is also attributable to better enforcement of the mandatory reporting law for juvenile offenses.

Table 7 compares the reasons for referral to juvenile court in 1981 and 1982. The high increase in deprivation cases is particularly noteworthy because all deprivation cases are formal filings and require a substantial amount of judge time for processing. Although misdemeanor thefts continue to be the largest criminal violation causing referral, the gap between them and felony thefts was bridged by a substantial degree in 1982.

**FIGURE 6**

COMPARISON OF JUVENILE DISPOSITIONS

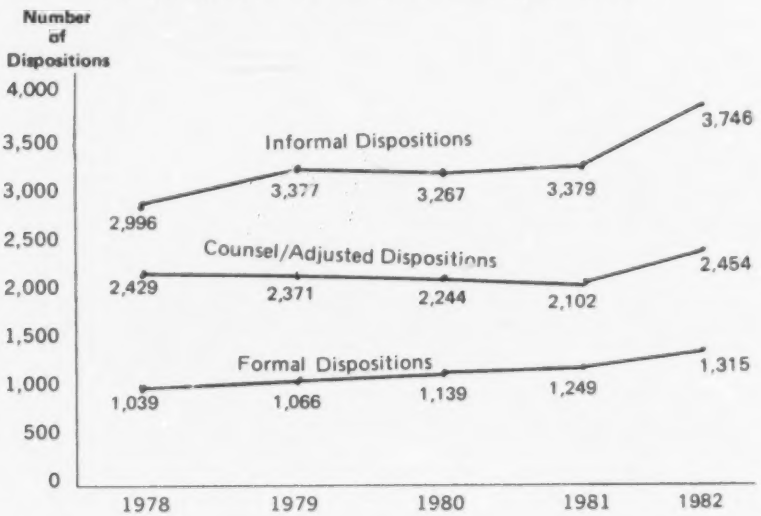



**TABLE 6**

TYPES OF JUVENILE COURT DISPOSITIONS FOR THE 1981 AND 1982 CALENDAR YEARS

| Judicial District | Formal | | Informal | | Counsel/ Adjusted | | Total Dispositions | | Percent Difference For Total Dispositions |
|---|---|---|---|---|---|---|---|---|---|
| | 1982 | 1981 | 1982 | 1981 | 1982 | 1981 | 1982 | 1981 | |
| Northwest | 122 | 135 | 886 | 861 | 261 | 265 | 1,269 | 1,261 | .6 |
| Northeast | 206 | 168 | 429 | 474 | 528 | 533 | 1,163 | 1,175 | -1.0 |
| Northeast Central | 151 | 136 | 352 | 389 | 258 | 259 | 761 | 784 | -2.9 |
| East Central | 348 | 412 | 489 | 491 | 241 | 70 | 1,078 | 973 | 10.8 |
| Southeast | 176 | 137 | 533 | 585 | 320 | 304 | 1,029 | 1,026 | .3 |
| South Central | 280 | 202 | 921 | 468 | 692 | 546 | 1,894 | 1,216 | 55.8 |
| Southwest | 32 | 59 | 136 | 111 | 154 | 125 | 322 | 295 | 9.2 |
| TOTAL | 1,315 | 1,249 | 3,746 | 3,379 | 2,454 | 2,102 | 7,516 | 6,730 | 11.7 |

## TABLE 7

REASON FOR REFERRAL TO JUVENILE COURT
DURING THE 1981 AND 1982 CALENDAR YEARS

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| **UNRULY** | **902** | **867** | **4.0** |
| Runaway-In State | 229 | 245 | - 6.5 |
| Runaway-Out of State | 43 | 75 | -42.7 |
| Truancy | 123 | 148 | -16.9 |
| Ungovernable Behavior | 255 | 183 | 39.3 |
| Conduct/Control Violation | 27 | 31 | -12.9 |
| Curfew Violation | 139 | 120 | 15.8 |
| Other | 86 | 65 | 32.3 |
| **DELINQUENCY** | **5,157** | **4,940** | **4.4** |
| Offense Against Person | **158** | **128** | 23.4 |
| Assault | 86 | 69 | 24.6 |
| Homicide | 0 | 0 | 0 |
| Kidnapping | 0 | 3 | -100.0 |
| Sex Offense | 37 | 31 | 19.4 |
| Other | 35 | 25 | 40.0 |
| Offense Against Property | **2,237** | **2,372** | **- 5.7** |
| Arson | 8 | 19 | -57.9 |
| Burglary | 248 | 252 | - 1.6 |
| Criminal Mischief | 389 | 352 | 10.5 |
| Criminal Trespass | 76 | 66 | 15.2 |
| Forgery | 45 | 43 | 4.6 |
| Robbery | 7 | 3 | 133.3 |
| Theft-Misdemeanor | 768 | 1,110 | -30.8 |
| Theft-Felony | 490 | 277 | 76.9 |
| Unauthorized Use of Vehicle | 87 | 102 | -14.7 |
| Other | 119 | 148 | -19.6 |
| Traffic Offenses | **487** | **478** | **1.9** |
| Driving w/o license | 385 | 403 | - 4.5 |
| Negligent Homicide | 0 | 0 | 0 |
| Other | 102 | 75 | 36.0 |
| Other Offenses | **2,275** | **1,962** | **16.0** |
| Disorderly Conduct | 189 | 165 | 14.5 |
| Firearms | 36 | 21 | 71.4 |
| Game & Fish Violation | 54 | 48 | 12.5 |
| Obstruction of Law Enforce/Escape | 19 | 23 | -17.4 |
| Controlled Substance Violation | 141 | 169 | -16.6 |
| Possession or Purchase of Alcohol Beverage | 1,762 | 1,474 | 19.5 |
| Other | 74 | 62 | 19.4 |
| **DEPRIVATION** | **994** | **530** | **87.6** |
| Abandoned | 3 | 7 | -57.1 |
| Abuse/Neglect | 548 | 247 | 121.9 |
| Deprived | 420 | 259 | 62.2 |
| Other | 23 | 17 | 35.3 |
| **SPECIAL PROCEEDINGS** | **162** | **139** | **16.6** |
| Termination Parental Rights Involuntary | 5 | 9 | -44.4 |
| Termination Parental Rights Voluntary | 117 | 97 | 20.6 |
| Other | 40 | 33 | 21.2 |
| TOTAL | 7,215 | 6,476 | 11.4 |

# Report of the Northwest Judicial District

*The Honorable Wallace D. Berning, Presiding Judge*

**Court Administration**

The assignment of cases for the judges chambered in Minot (Judges Berning, Olson and Kerian) has undergone a change. Every month the judges confer, review, and assign cases that have been filed at least 30 days. As a result of the prompt identification of the assigned judges, we feel that all cases are better serviced.

On July 1, 1982 an indigent defense contract was implemented for Ward County and it is contemplated that a similar contract will be implemented for the counties of Williams and McKenzie on July 1, 1983.

A presiding judge's meeting of the Northwest Judicial District was held on November 6, 1982 at which the District Judges, County Judges Gary Holum (Ward County) and Gordon Thompson (Williams County) met with the newly-elected County Judges William McLees (McKenzie County) and Ralph Bekken (Mountrail, Divide and Burke Counties). At this meeting a number of matters were discussed relating to the administration of the County and District Courts.

The presiding judge has maintained regular contact with the judges in Williston as well as the newly-elected county judges for McKenzie, Burke, Divide, and Mountrail Counties.

**Facilities**

In November the voters of Ward County authorized the building of a new jail and contracts totaling $3,200,000 have been awarded. It is expected that the new jail will be available in approximately two years.

The three judges in Minot have installed speaker phones to utilize for conferences and motions. The judges in Williston are in the process of acquiring similar speaker phones.

With the assistance of the Upper Missouri Bar Association, expenses in the law library at Williston (one of the largest and finest in the state) have been reduced some 20 percent. This was an outstanding example of understanding and cooperation and our sincere thanks to Mr. Dean Winkjer, Mr. Al Wahl, Mr. Fred Whisenand, and Judges Beede and Wilson for their leadership in effecting these savings

**Juvenile Court**

The process of shredding records of the Ward County Juvenile Office dating back to 1896 has been completed.

Mr. Stenehjem, the juvenile supervisor in Williston, has continued to offer a number of well-accepted educational and contact programs to citizens of the counties serviced by his office. These involve matters relating to drugs, alcohol, and delinquency. The juvenile offices in Williston and Minot were successful in obtaining a total of approximately $23,000 in restitution during the year 1982. The Minot juvenile office has implemented a program in which youth on probation are involved in public service work in the community. Mr. Stenehjem is also planning a program of public service for youngsters on probation in the areas serviced by Williston. Further, in an effort to facilitate restitution, efforts have been made in cooperation with the Department of Public Works in the City of Williston to provide jobs for youth involved in vandalism.

On October 6, 1982 the three district judges in Minot, recognizing the critical need for foster homes, wrote letters to all churches and service clubs in the community soliciting interest in foster homes. Although many inquiries were received, the final result fell short of our expectations. This is a serious problem which will continue to receive our attention in the future.

## TABLE 8
## A COMPARISON OF THE NORTHWEST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **2,882** | **2,699** | **6.8** |
| Civil | 2,483 | 2,294 | 8.2 |
| Criminal | 277 | 270 | 2.6 |
| Juvenile | 122 | 135 | - 9.6 |
| Cases Carried Over From Previous Year | **775** | **872** | **-11.1** |
| Civil | 737 | 850 | -13.3 |
| Criminal | 38 | 22 | 72.7 |
| Juvenile | 0 | 0 | 0 |
| Total Cases Docketed | **3,657** | **3,571** | **2.4** |
| Civil | 3,220 | 3,144 | 2.4 |
| Criminal | 315 | 292 | 7.9 |
| Juvenile | 122 | 135 | - 9.6 |
| Dispositions | **2,777** | **2,796** | **- 0.7** |
| Civil | 2,377 | 2,407 | - 1.3 |
| Criminal | 278 | 254 | 9.5 |
| Juvenile | 122 | 135 | - 9.6 |
| Cases Pending As of December 31 | **880** | **775** | **13.6** |
| Civil | 843 | 737 | 14.4 |
| Criminal | 37 | 38 | - 2.6 |
| Juvenile | 0 | 0 | 0 |

# Report of the Northeast Judicial District

*The Honorable Douglas B. Heen, Presiding Judge*
*Dagny Olson, Administrative Assistant*

**Caseflow Management**

The Northeast District's system of assigning all cases filed in each county to the district judge chambered nearest the county has been working smoothly and has resulted in a considerable saving of judicial resources. The District will continue to refine this approach to case assignments.

The year 1982 has seen the election of several new full-time county judges in our District under the new county court system. The impact of these new county courts on the district court caseload will be studied carefully in the coming year.

**Facilities**

Generally, district court facilities are reasonably adequate, with a few exceptions, throughout the Northeast District. The institution of the new county court system, however, has highlighted a lack of county court facilities in several counties. Many of these counties have taken action to provide excellent county court facilities, and in other counties the district court has arranged to share its facilities with county judges.

Library space continues to be at a premium in some areas of the District. The advent of more full-time county judges in the District will intensify the need.

**Juvenile Court**

A new chemical abuse youth program has been instituted at the Lake Region Human Service Center in response to a serious perceived need in several areas of the District. The program is designed as an educational resource to improve adolescent awareness of the effects of alcohol and other drugs. The program consists of seven two-hour sessions spread over a three-week period and involves parents in three of the sessions. We expect the program to be a significant resource for juvenile courts.

In the western end of the District, the juvenile court is cooperating with social service agencies to provide specialized shelter-care foster homes as an alternative to jails for emergency shelter-care placement of children. Shelter-care homes will receive special training and support, including a monthly retainer fee, and will be on call on a twenty-four hour basis throughout the year to provide temporary shelter care to children in need.

**Staff**

The lack of a juvenile court probation officer at Devils Lake continues to be the most critical current staffing need in the Northeast District. That position must be filled at the earliest possible opportunity.

**Miscellaneous**

The district court is now approaching the end of its first biennium on state funding and the transition is nearly completed. Problems and misunderstandings that have arisen with several counties during the transition period have been resolved through the patient and diligent efforts of county officers, the presiding judges, and the State Court Administrator's staff.

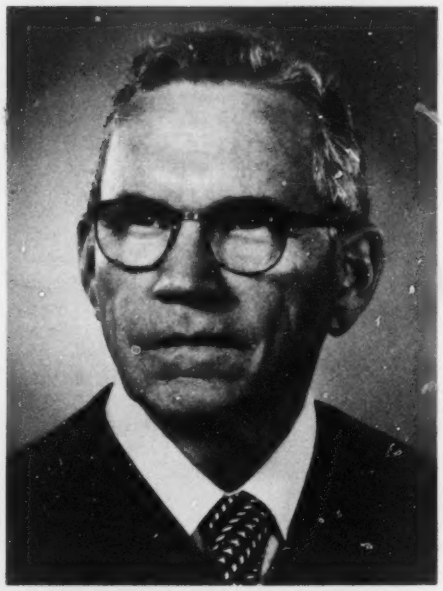
There are still details to be resolved, particularly the payment of prosecution costs, but such problems are being addressed and, in due course, will be solved. In the meantime, justice continues to be administered with reasonable efficiency in the Northeast Judicial District.

## TABLE 9
## A COMPARISON OF THE NORTHEAST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **1,781** | **1,589** | **12.1** |
| Civil | 1,426 | 1,260 | 13.2 |
| Criminal | 149 | 161 | - 7.5 |
| Juvenile | 206 | 168 | 22.6 |
| Cases Carried Over from Previous Year | **525** | **532** | **- 1.3** |
| Civil | 488 | 476 | 2.5 |
| Criminal | 37 | 56 | - 3.4 |
| Juvenile | 0 | 0 | 0 |
| Total Cases Docketed | **2,306** | **2,121** | **8.7** |
| Civil | 1,914 | 1,736 | 10.3 |
| Criminal | 186 | 217 | -14.3 |
| Juvenile | 206 | 168 | 22.6 |
| Dispositions | **1,644** | **1,596** | **3.0** |
| Civil | 1,301 | 1,248 | 4.3 |
| Criminal | 137 | 180 | 23.9 |
| Juvenile | 206 | 168 | 22.6 |
| Cases Pending As of December 31 | **662** | **525** | **26.1** |
| Civil | 613 | 488 | 25.6 |
| Criminal | 49 | 37 | 32.4 |
| Juvenile | 0 | 0 | 0 |

# Report of the Northeast Central Judicial District

*The Honorable A.C. Bakken, Presiding Judge*
*Pat Thompson, Court Administrator*



**Caseflow Management**

The Northeast Central Judicial District has established time intervals for disposition of cases in order to comply with docket currency standards. A status conference is now scheduled in complex cases after joinder of issue and prior to pre-trial conferences for the purpose of compelling early and continuous action by counsel to complete discovery and to pursue negotiations for settlements.

The District Judges and Administrative Staff met with County Judges Ronald Dosch and Jonal Holt-Uglem to establish procedures for assigning and processing criminal and civil cases in Griggs and Nelson Counties.

**Advisory Board**

Attorney Damon Anderson was reappointed to serve a three year term as a member of the Advisory Board. Other members are Lloyd B. Omdahl, Director of the Bureau of Governmental Affairs of the University of North Dakota, and attorney Grace Melgard. The Board will be consulted in matters pertaining to the selection of attorneys under contract to represent indigent defendants during the biennium commencing July 1, 1983 through June 30, 1985.

**Juvenile Court Activities**

The pilot program, TOUGH LOVE, sponsored by Juvenile Court is in its second year. During the last year more than 100 families in the Grand Forks area participated in the program. The program deals with problems arising out of juvenile delinquency and unruly behavior. It provides parents with information concerning outside resources and referrals for family counselling and drug abuse. It has provided better understanding of juvenile problems and treatment in the community.

**Public Defender Contracts Awarded**

Grand Forks County entered into contracts for counsel services for indigent defendants for the period July 1, 1982 through June 30, 1983. Awarded contracts were attorneys R. Lee Hamilton, George Longmire and the law firm of Kuchera, Stenehjem & Wills, all of Grand Forks. The firms are paid specific fees monthly for their legal services, regardless of the caseloads, which enables the Court Administrator to budget with reasonble accuracy for indigent defense expenses.

**Facilities**

The Grand Forks County Commissioners authorized a remodeling project in the courthouse which enlarged the chambers of Judge Joel D. Medd and also provided a work room for three student law clerks who previously shared space in the law library.

**Law Clerks**

We have reorganized the interviewing and selection of student law clerks. Orientations were held at the University of North Dakota School of Law by the District Judges. Each judge selects a student law clerk who in turn is given three UND Law School credit hours for performing 10 hours of law clerk duties each week during a regular semester and two UND Law School credit hours during the summer.

**Community Involvement**

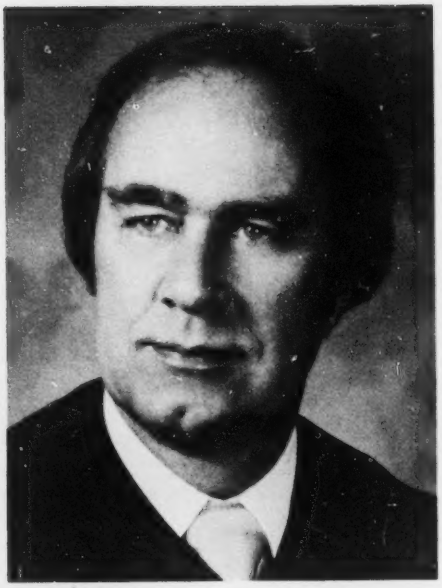
Judges A.C. Bakken, Kirk Smith and Joe D. Medd participated in mock trials at the University of North Dakota School of Law and also in classes for continuing contract credit for the Grand Forks teachers. They have also served as speakers for programs at the UND Law School, Department of Political Science, and local high schools. On Law Day, May 1, over 200 students from local and area schools observed district court trials in progress.

**TABLE 10**
A COMPARISON OF THE NORTHEAST CENTRAL JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **1,816** | **1,685** | **7.7** |
| Civil | 1,552 | 1,447 | 7.3 |
| Criminal | 113 | 102 | 10.8 |
| Juvenile | 151 | 136 | 11.0 |
| Cases Carried Over From Previous Year | **587** | **684** | **-14.2** |
| Civil | 566 | 641 | -11.7 |
| Criminal | 21 | 43 | -51.2 |
| Juvenile | 0 | 0 | 0 |
| Total Cases Docketed | **2,403** | **2,369** | **1.4** |
| Civil | 2,118 | 2,088 | 1.4 |
| Criminal | 134 | 145 | 7.6 |
| Juvenile | 151 | 136 | 11.0 |
| Dispositions | **1,676** | **1,782** | **- 6.0** |
| Civil | 1,424 | 1,522 | - 6.4 |
| Criminal | 101 | 124 | -18.6 |
| Juvenile | 151 | 136 | 11.0 |
| Cases Pending As of December 31 | **727** | **587** | **23.9** |
| Civil | 694 | 566 | 22.6 |
| Criminal | 33 | 21 | 57.1 |
| Juvenile | 0 | 0 | 0 |

# Report of the East Central Judicial District

*The Honorable Norman J. Backes, Presiding Judge*
*Mark Hinnen, Court Administrator*



**Caseflow Management**

As the pace of litigation of the District increased, judges responded to the challenge by disposing of more civil and criminal cases than were filed. The District had the highest number of dispositions per judge in the State with 708 dispositions per judge. The District also experienced a 53% increase or 38 cases in the number of felony B cases filed, which is also the reason for the increase in criminal filings in the District.

A contributing factor to the large decrease in the number of pending cases in the District is the continued efforts of the Clerks of Court and Court Administrator's Office to monitor cases and dismiss cases after one year for lack of prosecution.

**Jury Management**

For the first time, the District utilized a jury exit questionnaire to gather responses from jurors who had completed jury service. The response rate for the questionnaires has been very good. One question asked of the jurors was whether taking notes during the trial would be helpful in deliberation. Of those answering the question, a two to one majority felt that jurors should be allowed to take notes. Responses also indicated a generally favorable impression of jury service. The results of the survey will be used as one indicator in determining changes in the jury system.

**Juvenile Court**

In October, 1982, Art Lieb, Mary Hall and Mark Hinnen met with representatives from the local social service agencies to discuss the possibility of providing family therapy counseling services to families in conflict. The meetings resulted in a decision to apply for a grant through the Juvenile Justice and Delinquency Prevention State Allocation Program to provide such services. The basic program is to provide for three therapists skilled in family therapy, working in close conjunction with Juvenile Court and private agencies to provide the required services. Assistance in preparing the grant was provided by the Lake Agassiz Regional Counsel. If approved, the program would primarily serve the six county region of the Lake Agassiz Regional Counsel.

**Other Activity**

A bank of memo opinions was developed by our law clerk this year. Using the West subject index as a guide, Sue Linder created a file system for opinions written by the judges. Arranged alphabetically by subject and cross referenced to related subjects, the system allows easy access to opinions rendered by the judges.

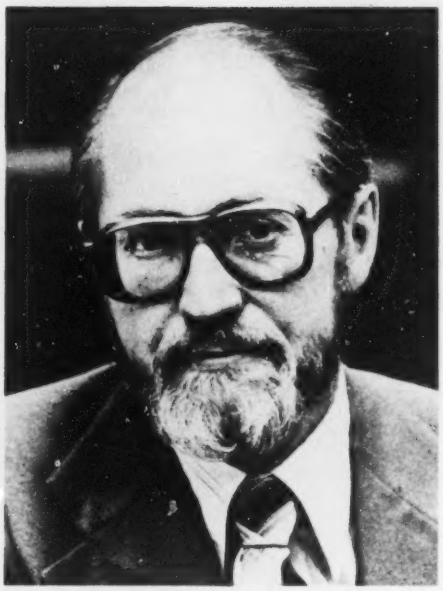
Also in 1982, Judge John Garaas was named to the Personnel Advisory Board and has been very active with the Board since his appointment. Judge Michael McGuire was named to the Judicial Planning Committee, and Judge Lawrence Leclerc was elected President of the District Judges Association.

## TABLE 11
## A COMPARISON OF THE EAST CENTRAL JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **3,143** | **3,100** | **1.4** |
| Civil | 2,579 | 2,473 | 4.3 |
| Criminal | 216 | 215 | 0.5 |
| Juvenile | 348 | 412 | -15.5 |
| Cases Carried Over From Previous Year | **1,480** | **1,324** | **11.8** |
| Civil | 1,398 | 1,288 | 8.5 |
| Criminal | 82 | 36 | 127.8 |
| Juvenile | 0 | 0 | 0 |
| Total Cases Docketed | **4,623** | **4,424** | **4.5** |
| Civil | 3,977 | 3,761 | 5.7 |
| Criminal | 298 | 251 | 18.7 |
| Juvenile | 348 | 412 | -15.5 |
| Dispositions | **3,179** | **2,944** | **8.0** |
| Civil | 2,593 | 2,363 | 9.7 |
| Criminal | 238 | 169 | 40.8 |
| Juvenile | 348 | 412 | -15.5 |
| Cases Pending As of December 31 | **1,444** | **1,480** | **- 2.4** |
| Civil | 1,384 | 1,398 | - 1.0 |
| Criminal | 160 | 82 | -26.8 |
| Juvenile | 0 | 0 | 0 |

# Report of the Southeast Judicial District

*The Honorable Robert L. Eckert, Presiding Judge*



**District Judge Fredricks Resigns**

Long time District Judge M.C. Fredricks of Jamestown, North Dakota, announced his retirement from the bench effective March 18, 1983. Judge Fredricks was first elected to the office of District Judge in 1960 and was the senior judge in the Southeast Judicial District.

**New Facilities**

Construction of the Stutsman County Courthouse has now been completed. The new facilities provide two badly needed courtrooms and also generous office space for judicial offices. Construction had been started in 1981.

**Advisory Committee On Local Court Rules**

The Advisory Committee on Local Court Rules did not meet during 1982, although some of its previous proposals have now been acted upon. Procedures to resolve fee disputes where attorneys are appointed to represent indigent defendants have now been adopted. Proposals were made to standardize procedures for interim orders in divorce cases, as recommended by the Committee, but neither the Legislature nor the Supreme Court have acted upon these suggestions. Additional judicial services have also been provided to Stutsman County as recommended by the Committee so that the court calendar for that county is now current. Another recommendation of the Committee that calls for the rotation of district judges in all court and jury cases is still under consideration.

**Annual Meeting Of The Southeast Judicial District Bar Association**

The third meeting of the Southeast Judicial District Bar Association was held at Jamestown, North Dakota. Presiding at the meeting was President Ted Kessel of LaMoure, North Dakota. Warren Stokes of Wahpeton, North Dakota was elected the new President of the Association. Richland County attorneys extended an invitation to the Association to meet in Wahpeton in 1983, which was unanimously accepted by the Association.

**Assignment of Cases**

Cases from Richland, Ransom and Sargent counties which are tried to the court without a jury continue to be assigned to Judge Eckert. Cases arising in Eddy, Foster and Stutsman counties which are to be tried to the court without a jury continue to be assigned to Judge Fredricks. Cases from Barnes, LaMoure and Dickey counties which are to be tried to the court without a jury continue to be assigned to Judge Paulson.

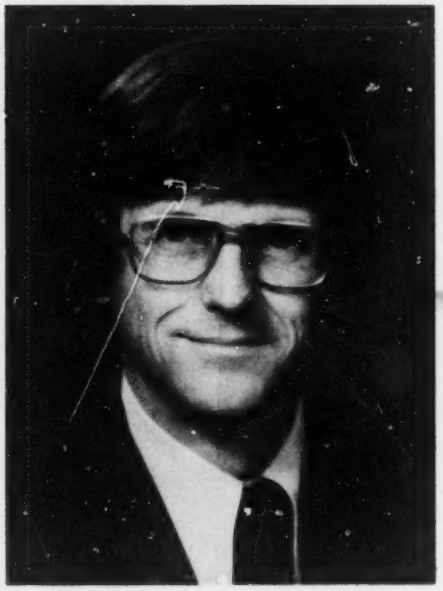
Clerks of court have been ordered to immediately notify the district court of the filing of any bindover papers so that criminal arraignments and criminal trials can be held as soon as possible. The district judges continue to alternate civil jury terms in each county within the district.

## TABLE 12
## A COMPARISON OF THE SOUTHEAST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **1,861** | **1,728** | **7.7** |
| Civil | 1,571 | 1,432 | 9.7 |
| Criminal | 114 | 159 | -28.3 |
| Juvenile | 176 | 137 | 28.5 |
| Cases Carried Over From Previous Year | **687** | **645** | **6.5** |
| Civil | 633 | 598 | 5.9 |
| Criminal | 54 | 47 | 14.9 |
| Juvenile | 0 | 0 | 0 |
| Total Cases Docketed | **2,548** | **2,373** | **7.4** |
| Civil | 2,204 | 2,030 | 8.6 |
| Criminal | 168 | 206 | -18.5 |
| Juvenile | 176 | 137 | 28.5 |
| Dispositions | **1,882** | **1,686** | **11.6** |
| Civil | 1,593 | 1,397 | 14.0 |
| Criminal | 113 | 152 | -25.7 |
| Juvenile | 176 | 137 | 28.5 |
| Cases Pending As of December 31 | **666** | **687** | **- 3.1** |
| Civil | 611 | 633 | - 3.5 |
| Criminal | 55 | 54 | 1.9 |
| Juvenile | 0 | 0 | 0 |

# Report of the South Central Judicial District

*The Honorable Benny A. Graff, Presiding Judge*
*Dee J. Hanson, Court Administrator*



**District Planning Meeting**

On July 12, 1982 the South Central Judicial District held a very successful planning session in which a wide cross-section of judicial and support personnel from the district participated. The meeting focused on identification of present and future concerns facing the district. Participants were divided into discussion groups and each of the four groups listed problem areas that the district is currently facing or may have to face in the future. State Court Administrative staff, Ted Gladden, Larry Spears and Greg Wallace, helped as discussion leaders at the meeting. A total of 119 problems were identified and subsequently categorized into 14 areas of concern. The problem areas were then analyzed by the District Court Administrator and used in conjunction with 1983-85 Biennium Budget request and for the 1983-85 Biennium Management Plan for the South Central Judicial District.

**Clerks of Court**

Through retirement and the elective process, six of the eleven clerks outside the Bismarck-Mandan area are now new holders of those offices in the South Central District. In view of this, the District Court Administrator has conducted training meetings and individual conferences with all new clerks since the start of the year.

Most of the South Central clerks attended a Master Jury List preparation seminar which was coordinated through the State Court Administrator's Office. The process of selecting names for the new master jury list went very smoothly and the transition to the new jury selection system was successful in terms of saving time and money. A standardized Jury Qualification and Information Form was also adopted by the clerks in the district.

**Juvenile Division**

A unified juvenile division within the South Central Judicial District has been established and is operating under the direction and supervision of a Chief Juvenile Supervisor/Referee. The benefits of this change have been obvious through increased efficiency and standard operating procedures. A part-time domestic relations referee has also been hired to hear child support matters and to provide a backup for the Juvenile Referee.

**Future Developments In 1983**

A decision to purchase a computer for use in the District Court Administrator's Office was made after approximately two years of need analysis and an extensive survey of the market. The computer will provide on-line case processing for the Court Administrator's Office and will also transmit data directly to the State via a telephone modem. The computer will perform word processing and data processing applications and the software will be totally integrated to allow simultaneous processing. Hardware will be installed in March, 1983.

The new county courts which will be established on January 1, 1983 will provide expanded opportunities for the consolidation of administration in the district. The District Court Administrator is looking forward to working with both county and district judges on administrative matters in an effort to administratively unify the district. There is also a great deal of opportunity in the Clerk of Courts offices to standardize record keeping procedures and to share efficient operational systems.

## TABLE 13
## A COMPARISON OF THE SOUTH CENTRAL JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **3,343** | **3,167** | **5.6** |
| Civil | 2,747 | 2,651 | 3.6 |
| Criminal | 316 | 314 | 0.6 |
| Juvenile | 280 | 202 | 38.6 |
| Cases Carried Over From Previous Year | **1,304** | **1,233** | **5.8** |
| Civil | 1,258 | 1,159 | 8.5 |
| Criminal | 46 | 74 | -37.8 |
| Juvenile | 0 | 0 | 0 |
| Total Cases Docketed | **4,647** | **4,400** | **5.6** |
| Civil | 4,005 | 3,810 | 5.1 |
| Criminal | 362 | 388 | - 6.7 |
| Juvenile | 280 | 202 | 38.6 |
| Dispositions | **3,167** | **3,096** | **2.3** |
| Civil | 2,626 | 2,552 | 2.9 |
| Criminal | 261 | 342 | -23.7 |
| Juvenile | 280 | 202 | 38.6 |
| Cases Pending As of December 31 | **1,480** | **1,304** | **13.5** |
| Civil | 1,379 | 1,258 | 9.6 |
| Criminal | 101 | 46 | 119.6 |
| Juvenile | 0 | 0 | 0 |

# Report of the Southwest Judicial District

*The Honorable Maurice R. Hunke, Presiding Judge*
*Ardean Ouellette, Court Administrator*

**Caseload**

The rapid escalation of new case filings in the Southwest Judicial District continued during 1982. The compounding effect of 1982 over the prior year resulted in a startling 73.6% increase in caseload during the two year period from December 1980 to December 1982.

We are grateful for the wisdom of the 1981 (Forty-seventh) Legislative Assembly in authorizing a third district judge, court administrator and secretary for this district which has enabled us to remain in compliance with docket currency standards. We have now had sufficient experience with the litigation -- producing effect of increased population and economic activity caused by energy exploration within our jurisdiction to know the impact on court services. Examining Stark County only, one of the eight counties in our district, we note that during fiscal year 1977 (the time the now famous Little Knife oil field was discovered) there had been only 35 felony actions filed, which by 1982 had increased nearly 400% to 126. In the area of child and spousal support actions, there were only 22 cases in 1977 and by 1982 that had grown almost 700% to 145 cases. As might have been expected, the economic distress resulting from the sudden slowdown in oil and gas drilling activity during 1982 has also caused additional litigation.

**Budget Strain**

North Dakota District Courts encounter the administrative difficulty of being required to prepare initial budget estimates nearly three years in advance of the conclusion of the biennium during which that budget will be expended. It is axiomatic that since no one could reasonably have foreseen a 73% increase in caseload in the Southwest District during the current biennium, the resulting budgetary strain could not have been anticipated. Notwithstanding imposition of stringent measures upon attorneys providing indigent defense services, we will exceed the budget estimate in that area during the biennium. Obviously, we are grateful for the existence of statewide budget administration and the sympathetic cooperation of the six other judicial districts in relieving our budget difficulty.

**Juvenile Court**

With the experience of another year, we have learned that attempting to provide minimal juvenile court services with only one person to serve eight counties is intolerably poor management. Only the efficient and experienced skills of Juvenile Supervisor Howard V. Egan, Jr., have prevented an embarrassing breakdown in statutorily mandated juvenile court services. We have requested budgetary authorization during the biennium starting July 1, 1983, for one probation officer and a secretary to assist Mr. Egan.

**New Facilities**

During 1982 we enjoyed the completion of a remodeling project in the Stark County Courthouse which provided a new courtroom, law library and district court chambers. We are hopeful that in 1983 we will see the completion of a remodeling project to provide a small hearing room, court administrator offices, and juvenile court offices.

A completely new Billings County Courthouse is under construction at Medora and is scheduled to be completed in August of 1983. That facility will allow a handsome improvement in judicial services to the public, at both the county court and district court level.

**1983**

Considering the volatility of the past two years, prognostication for 1983 might be folly, but we do expect a stabilization or at least a reduced rate of increase in our caseload. We also hope that our personnel needs in juvenile court will be resolved.

## TABLE 14
## A COMPARISON OF THE SOUTHWEST JUDICIAL DISTRICT CASELOADS FOR CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **1,418** | **1,076** | **31.8** |
| Civil | 1,237 | 908 | 36.2 |
| Criminal | 149 | 109 | 36.7 |
| Juvenile | 32 | 59 | -45.8 |
| Cases Carried Over From Previous Year | **394** | **468** | **-15.8** |
| Civil | 374 | 450 | -16.9 |
| Criminal | 20 | 18 | 11.1 |
| Juvenile | 0 | 0 | 0 |
| Total Cases Docketed | **1,812** | **1,544** | **17.4** |
| Civil | 1,611 | 1,358 | 18.6 |
| Criminal | 169 | 127 | 33.1 |
| Juvenile | 32 | 59 | -45.8 |
| Dispositions | **1,232** | **1,150** | **7.1** |
| Civil | 1,070 | 984 | 8.7 |
| Criminal | 130 | 107 | 21.5 |
| Juvenile | 32 | 59 | -45.8 |
| Cases Pending As of December 31 | **580** | **394** | **47.2** |
| Civil | 541 | 374 | 44.7 |
| Criminal | 39 | 20 | 95.0 |
| Juvenile | 0 | 0 | 0 |

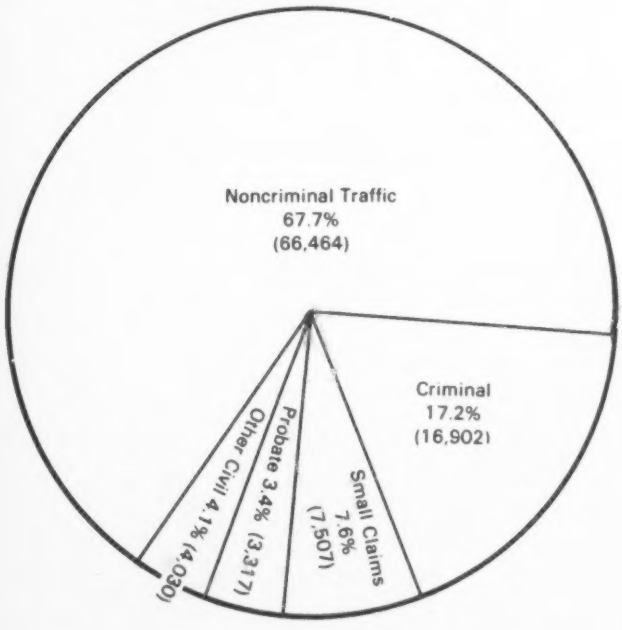
# The County Court System

**North Dakota has three types of county courts. They are the county courts with increased jurisdiction, the county justice courts, and the county probate courts. Generally speaking, the most populous counties in the state have the county courts with increased jurisdiction and the lesser populated counties have both county justice courts and county probate courts. All three types of county courts are courts of limited jurisdiction.**

**In 1981 the Legislature passed legislation establishing a uniform system of county courts to replace the present multifaceted county court structure. This new county court system becomes effective on January 1, 1983. The jurisdiction of the new county courts will be the equivalent of the present county courts of increased jurisdiction. Two or more counties will be permitted to contract with one another for the services of a single county judge. In those counties where a county judge does not reside, a magistrate may be appointed to handle preliminary matters until the county judge holds court in the county. In contrast to the present system, all county judges will be licensed attorneys and serve as full-time judges under the new county court system.**

Most of the cases filed in the county courts are noncriminal traffic cases. Such cases constitute nearly 68 percent of the county courts' caseload. Criminal cases, mainly misdemeanor, make up over 17 percent of the caseload and civil cases compose approximately 15 percent of the caseload. Within the civil cases category, small claims cases and probate cases dominate. Figure 7 provides a pictorial breakdown of the types of cases filed in all of the county courts in the state.

**FIGURE 7**
TYPES OF CASES FILED
IN ALL COUNTY COURTS FOR
THE 1982 CALENDAR YEAR




Although both civil and criminal filings in the various county courts increased in 1982, noncriminal traffic cases continued their downward slide. The modest increases recorded in civil and criminal filings are partially due to more timely reporting of caseload data by the county courts. The decline in noncriminal traffic cases suggest that North Dakotans have become conscientious in obeying traffic laws in the last two years.

Despite increases in civil and criminal dispositions, the total number of county court dispositions decreased because of the predominating influence of the noncriminal traffic cases on the county court docket. But while civil and criminal cases occupy a much smaller portion of the docket than noncriminal traffic cases, they usually require more judge time for disposition. Thus, significant increases in civil and criminal cases create greater demands on a judge's time and resources than similar increases in noncriminal traffic cases.

Civil cases were responsible for the rise in pending cases in 1982. Criminal pending cases actually declined. The rising number of pending civil cases partially reflects the particular character of certain types of cases processed by county courts. Probate, guardianship and conservatorship cases often require an unusually long time to process. Table 15 provides a caseload synopsis of the county courts for 1981 and 1982.

**TABLE 15**
CASELOAD SYNOPSIS OF ALL COUNTY
COURTS FOR THE
1981 AND 1982 CALENDAR YEARS

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **98,220** | **103,282** | **- 4.9** |
| Civil | 14,854 | 13,330 | 11.4 |
| Criminal | 16,902 | 15,837 | 6.7 |
| Noncriminal Traffic | 66,464 | 74,145 | -10.4 |
| Cases Carried Over From Previous Calendar Year | **17,313** | **15,481** | **11.8** |
| Civil | 13,325 | 12,005 | 11.0 |
| Criminal | 3,988 | 3,476 | 14.7 |
| Noncriminal Traffic | 0 | 0 | 0 |
| Total Cases Docketed | **115,533** | **118,763** | **- 2.7** |
| Civil | 28,179 | 25,305 | 11.4 |
| Criminal | 20,890 | 19,313 | 8.2 |
| Noncriminal Traffic | 66,464 | 74,145 | -10.4 |
| Dispositions | **96,803** | **101,450** | **- 4.6** |
| Civil | 13,318 | 11,980 | 11.2 |
| Criminal | 17,021 | 15,325 | 11.1 |
| Noncriminal Traffic | 66,464 | 74,145 | -10.4 |
| Cases Pending As of December 31 | **18,730** | **17,313** | **8.2** |
| Civil | 14,861 | 13,325 | 11.6 |
| Criminal | 3,869 | 3,988 | - 3.0 |
| Noncriminal Traffic | 0 | 0 | 0 |

**In the absence of data on filings for noncriminal traffic cases, dispositions for noncriminal traffic cases have been used as an indicator of filings.*

# County Courts of Increased Jurisdiction

County courts of increased jurisdiction are county courts where the offices of county judge and county justice have been merged. They are created by a special election in the county to decide whether the county courts and county justice courts should be combined to form a county court of increased jurisdiction. At present, seventeen of North Dakota's fifty-three counties have established county courts with increased jurisdiction. Unlike the other types of county courts, county courts with increased jurisdiction are courts of record.

The county court with increased jurisdiction has original jurisdiction concurrent with the district court in all civil cases where the amount in controversy does not exceed $1,000 and in all criminal misdemeanor cases. It has exclusive original jurisdiction in probate, testamentary, and guardianship matters. In 1977, county courts with increased jurisdiction were authorized to conduct mental health and commitment proceedings.

The judge of the county court with increased jurisdiction has the authority to issue warrants and complaints, to determine whether an individual accused of a felony should be held for trial, and to perform other standard judicial functions.

County courts of increased jurisdiction also have authority as small claims courts. The jurisdiction of the small claims court is limited to cases for recovery of not more than $1,000. There is no right of appeal from the decisions of the county court of increased jurisdiction when it is acting in its capacity as a small claims court.

In 1978 the supreme court authorized county courts of increased jurisdiction to hear all appeals from the municipal courts within their respective counties. Prior to this date, both district courts and county courts of increased jurisdiction had concurrent appellate jurisdiction for cases originating in municipal court.

Except for probate cases, appeals from the decisions of the county court of increased jurisdiction go directly to the supreme court. In probate cases, the appeals go to the district court.

The county court of increased jurisdiction judge must be a licensed North Dakota attorney, a resident of North Dakota and of the county in which he serves, and a citizen of the United States. All county court of increased jurisdiction judges are elected for four-year terms.

Noncriminal traffic cases comprised the bulk (64%) of the cases filed in the county courts of increased jurisdiction in 1982. However, these cases are disposed of very rapidly so that the amount of judge time spent in processing them is not proportional to their numerical dominance.

Criminal cases made up nearly 20 percent of new filings in the county courts with increased jurisdiction in 1982. Most of these cases (90%) were misdemeanor cases. The remaining 10 percent were felony cases in which the county courts of increased jurisdiction would conduct the preliminary hearing before binding the defendant over to the district court.

Civil filings composed approximately 16 percent of the 1982 filings. Overall, civil filings increased primarily because of significant increases in small claims cases (11%) and the residual category of other civil cases (16%). Probate cases, guardianship and conservatorship cases, and mental health and emergency commitment hearings all declined in 1982. Similar decreases in these cases were also recorded for 1981.

## TABLE 16

### CASELOAD SYNOPSIS OF COUNTY COURTS WITH INCREASED JURISDICTION FOR THE 1981 AND 1982 CALENDAR YEARS

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | **70,456** | **74,563** | **- 5.5** |
| Civil | 11,189 | 10,384 | 7.8 |
| Criminal | 13,834 | 12,905 | 7.2 |
| Noncriminal Traffic | 45,433 | 51,274 | -11.4 |
| Cases Carried Over From Previous Calendar Year | **11,654** | **10,238** | **13.8** |
| Civil | 8,754 | 7,847 | 11.6 |
| Criminal | 2,900 | 2,391 | 21.3 |
| Noncriminal Traffic | 0 | 0 | 0 |
| Total Cases Docketed | **82,110** | **84,801** | **- 3.2** |
| Civil | 19,943 | 18,231 | 9.4 |
| Criminal | 16,734 | 15,296 | 9.4 |
| Noncriminal Traffic | 45,433 | 51,274 | -11.4 |
| Dispositions | **69,369** | **73,147** | **- 5.2** |
| Civil | 10,075 | 9,477 | 6.3 |
| Criminal | 13,861 | 12,396 | 11.8 |
| Noncriminal Traffic | 45,433 | 51,274 | -11.4 |
| Cases Pending As of December 31 | **12,741** | **11,654** | **9.3** |
| Civil | 9,868 | 8,754 | 12.7 |
| Criminal | 2,873 | 2,900 | - 0.9 |
| Noncriminal Traffic | 0 | 0 | 0 |

## TABLE 17

### COUNTY COURTS WITH INCREASED JURISDICTION FILINGS AND DISPOSITIONS CALENDAR YEAR 1982

| County | Felony | | Misdemeanor | | Noncriminal Traffic | | | Total Non-criminal Traffic | Small Claims | | Probate | | Guardianship/ Conservatorship | | Other Civil | | Mental Health & Emerg. Commit. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | (F) | (D) | (F) | (D) | Convict. | Acquit. | Dismis. | | (F) | (D) | (F) | (D) | (F) | (D) | (F) | (D) | |
| Barnes | 49 | 40 | 732 | 671 | 2,853 | 1 | 0 | 2,854 | 216 | 193 | 82 | 35 | 7 | 2 | 18 | 19 | 86 |
| Benson | 5 | 8 | 214 | 206 | 1,310 | 12 | 0 | 1,322 | 79 | 75 | 49 | 28 | 5 | 1 | 15 | 15 | 2 |
| Burleigh | 265 | 231 | 1,137 | 1,059 | 3,173 | 15 | 0 | 3,188 | 722 | 729 | 124 | 111 | 15 | 15 | 527 | 512 | 64 |
| Cass | 223 | 248 | 1,238 | 1,526 | 4,164 | 1 | 0 | 4,165 | 1,311 | 1,356 | 207 | 172 | 62 | 23 | 569 | 556 | 219 |
| Grand Forks | 168 | 162 | 1,686 | 1,320 | 5,621 | 2 | 0 | 5,623 | 434 | 433 | 145 | 132 | 24 | 13 | 140 | 145 | 111 |
| LaMoure | 10 | 6 | 27 | 26 | 1,144 | 0 | 0 | 1,144 | 51 | 43 | 57 | 66 | 1 | 10 | 8 | 9 | 5 |
| Mercer | 36 | 38 | 373 | 370 | 1,147 | 0 | 0 | 1,147 | 145 | 147 | 25 | 16 | 1 | 0 | 16 | 15 | 7 |
| Morton | 34 | 36 | 572 | 549 | 5,931 | 0 | 0 | 5,931 | 224 | 224 | 86 | 0 | 7 | 4 | 143 | 149 | 26 |
| Ramsey | 27 | 32 | 739 | 794 | 1,799 | 16 | 0 | 1,815 | 152 | 151 | 73 | 65 | 18 | 6 | 36 | 35 | 10 |
| Ransom | 8 | 9 | 154 | 185 | 382 | 3 | 0 | 385 | 52 | 53 | 49 | 26 | 4 | 3 | 6 | 6 | 0 |
| Richland | 19 | 28 | 211 | 243 | 1,632 | 7 | 0 | 1,639 | 183 | 169 | 85 | 72 | 24 | 10 | 25 | 22 | 17 |
| Stark | 116 | 137 | 1,265 | 1,245 | 4,837 | 2 | 0 | 4,839 | 647 | 615 | 95 | 51 | 14 | 1 | 158 | 152 | 14 |
| Stutsman | 46 | 48 | 1,009 | 980 | 2,850 | 2 | 0 | 2,852 | 267 | 254 | 82 | 42 | 13 | 0 | 103 | 100 | 155 |
| Walsh | 55 | 40 | 699 | 626 | 1,617 | 0 | 0 | 1,617 | 439 | 212 | 116 | 91 | 17 | 1 | 105 | 103 | 43 |
| Ward | 76 | 102 | 995 | 1,246 | 3,358 | 20 | 0 | 3,378 | 474 | 466 | 198 | 133 | 34 | 14 | 375 | 372 | 99 |
| Wells | 0 | 0 | 32 | 32 | 561 | 0 | 0 | 561 | 40 | 40 | 50 | 52 | 8 | 3 | 13 | 13 | 7 |
| Williams | 178 | 176 | 1,436 | 1,444 | 2,964 | 9 | 0 | 2,973 | 431 | 289 | 162 | 98 | 11 | 3 | 196 | 185 | 55 |
| TOTAL | 1,315 | 1,339 | 12,519 | 12,522 | 45,343 | 90 | 0 | 45,433 | 5,867 | 5,449 | 1,685 | 1,189 | 265 | 109 | 2,452 | 2,408 | 920 |

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# County Justice Courts

There are thirty-six county justice courts in North Dakota. They have jurisdiction to hear criminal misdemeanor and infraction cases, noncriminal traffic cases, and civil money claims not exceeding $200 in value.

The criminal jurisdiction of a county justice court is generally the same as that of a county court with increased jurisdiction. Like county court with increased jurisdiction judges, county magistrates also act as committing magistrates in determining whether a person accused of a felony should be held for trial.

The civil jurisdiction of a county justice is limited by the nature of the claim as well as the amount of the claim. A mechanic's lien, for example, could not be foreclosed in county justice court even though the claim was less than $200.

In counties where there is a licensed attorney serving as county justice, the county justice is also authorized to conduct mental health and commitment proceedings. In those counties where the county justice is not a licensed attorney, mental health and commitment proceedings have been assigned to specific county courts with increased jurisdiction by a supreme court order.

County justice courts also serve as the small claims court for their respective counties. Their small claims jurisdiction is confined to cases for recovery of money or cancellation of any agreement involving fraud, deception, misrepresentation or false promise. The jurisdictional limit is $500. The decisions of the county justice court acting in its capacity as the small claims court are final; there is no right of appeal.

Except in mental health and commitment proceedings, a county justice court is not a court of record. Since it is not a court of record, all appeals, except in mental health and commitment proceedings, result in a new trial by the district court.

The county justices are elected for four-year terms. State law requires that they be licensed attorneys unless there is no licensed attorney in the county who is willing to serve as county justice. A county justice may serve more than one county at the same time.

Like the county courts with increased jurisdiction, the caseload of the county justice courts is comprised mainly of noncriminal traffic cases (81%), followed by criminal cases (12%) and small claims cases (6%). Mental health and other types of civil cases constitute only a negligible portion of the caseload for county justice courts.

Although filings and dispositions increased for both civil and criminal cases, they were not large enough to offset the impact of declining noncriminal traffic cases. As a result, both filings and dispositions in county justice courts showed a small drop in 1982.

While all types of civil cases showed increased filings and dispositions in 1982, much of the increase reflects a substantial rise in small claims filings and dispositions. Part of this increase seems due to better reporting of data by the clerks of county courts.

In contrast to prior years, the number of pending cases decreased as dispositions exceeded filings. This probably reflects a concentrated effort by the county justices to reduce backlogs before the new county judges authorized by the 1981 Legislature take office in January, 1983.

## TABLE 18
## CASELOAD SYNOPSIS OF COUNTY JUSTICE COURTS FOR THE CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| **New Filings** | **25,957** | **27,125** | **- 4.3** |
| Civil | 1,858 | 1,322 | 40.5 |
| Criminal | 3,068 | 2,932 | 4.6 |
| Noncriminal Traffic | 21,031 | 22,871 | - 8.1 |
| **Cases Carried Over From Previous Calendar Year** | **1,286** | **1,250** | **2.9** |
| Civil | 198 | 165 | 20.0 |
| Criminal | 1,088 | 1,085 | 0.3 |
| Noncriminal Traffic | 0 | 0 | 0 |
| **Total Cases Docketed** | **27,243** | **28,375** | **- 4.0** |
| Civil | 2,056 | 1,487 | 38.3 |
| Criminal | 4,156 | 4,017 | 3.5 |
| Noncriminal Traffic | 21,031 | 22,871 | - 8.1 |
| **Dispositions** | **26,072** | **27,089** | **- 3.8** |
| Civil | 1,881 | 1,289 | 45.9 |
| Criminal | 3,160 | 2,929 | 7.9 |
| Noncriminal Traffic | 21,031 | 22,871 | - 8.1 |
| **Cases Pending As of December 31** | **1,171** | **1,286** | **- 8.9** |
| Civil | 175 | 198 | -11.6 |
| Criminal | 996 | 1,088 | - 8.5 |
| Noncriminal Traffic | 0 | 0 | 0 |

## TABLE 19
## COUNTY JUSTICE COURT CASE FILINGS AND DISPOSITIONS
## CALENDAR YEAR 1982

| County | Felony | | Misdemeanor | | Noncriminal Traffic | | | Total Non-criminal Traffic | Small Claims | | Other Civil | | Mental Health Hearings Held |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | (F) | (D) | (F) | (D) | Convict. | Acquit. | Dismis. | | (F) | (D) | (F) | (D) | |
| Adams | 0 | 0 | 23 | 20 | 244 | 0 | 0 | 244 | 18 | 22 | 19 | 21 | 0 |
| Billings | 4 | 3 | 91 | 90 | 1,872 | 0 | 0 | 1,872 | 5 | 5 | 0 | 0 | 0 |
| Bottineau | 0 | 0 | 1 | 0 | 919 | 0 | 0 | 919 | 152 | 152 | 0 | 0 | 17 |
| Bowman | 4 | 4 | 28 | 29 | 328 | 0 | 0 | 328 | 16 | 16 | 0 | 0 | 1 |
| burke | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 2 | 243 | 253 | 0 | 0 | 0 |
| Cavalier | 0 | 0 | 36 | 36 | 410 | 1 | 0 | 411 | 31 | 42 | 0 | 0 | 5 |
| Dickey | 3 | 4 | 69 | 72 | 528 | 1 | 0 | 529 | 140 | 140 | 0 | 0 | 0 |
| Divide | 0 | 0 | 20 | 19 | 325 | 0 | 0 | 325 | 5 | 5 | 2 | 2 | 2 |
| Dunn | 0 | 0 | 59 | 52 | 835 | 8 | 0 | 843 | 14 | 5 | 0 | 0 | 0 |
| Eddy | 0 | 0 | 125 | 125 | 308 | 2 | 0 | 310 | 24 | 24 | 0 | 0 | 0 |
| Emmons | 1 | 1 | 122 | 127 | 1,093 | 1 | 0 | 1,094 | 58 | 71 | 0 | 0 | 6 |
| Foster | 11 | 9 | 28 | 28 | 334 | 0 | 0 | 334 | 15 | 16 | 0 | 0 | 0 |
| Golden Valley | 3 | 8 | 22 | 32 | 260 | 0 | 0 | 260 | 8 | 15 | 0 | 0 | 2 |
| Grant | 0 | 0 | 51 | 35 | 529 | 0 | 0 | 529 | 29 | 32 | 29 | 32 | 2 |
| Griggs | 4 | 3 | 112 | 115 | 698 | 0 | 0 | 698 | 13 | 14 | 0 | 0 | 3 |
| Hettinger | 0 | 0 | 23 | 19 | 172 | 0 | 0 | 172 | 21 | 22 | 22 | 22 | 1 |
| Kidder | 0 | 0 | 97 | 86 | 1,446 | 4 | 0 | 1,450 | 18 | 18 | 0 | 0 | 0 |
| Logan | 2 | 2 | 10 | 10 | 135 | 0 | 0 | 135 | 12 | 12 | 0 | 0 | 0 |
| McHenry | 18 | 12 | 202 | 205 | 950 | 3 | 0 | 953 | 39 | 44 | 0 | 0 | 0 |
| McIntosh | 4 | 6 | 49 | 67 | 251 | 0 | 0 | 251 | 12 | 14 | 0 | 0 | 0 |
| McKenzie | 0 | 0 | 0 | 0 | 2,477 | 1 | 0 | 2,478 | 65 | 60 | 0 | 0 | 12 |
| McLean | 8 | 9 | 183 | 218 | 788 | 2 | 0 | 790 | 59 | 59 | 1 | 1 | 12 |
| Mountrail | 1 | 1 | 176 | 172 | 944 | 3 | 0 | 947 | 78 | 75 | 1 | 0 | 11 |
| Nelson | 5 | 6 | 70 | 82 | 547 | 1 | 0 | 548 | 33 | 33 | 2 | 2 | 0 |
| Oliver | 0 | 1 | 44 | 37 | 542 | 1 | 0 | 543 | 2 | 2 | 0 | 0 | 0 |
| Pembina | 15 | 17 | 78 | 85 | 980 | 4 | 0 | 984 | 86 | 78 | 1 | 1 | 17 |
| Pierce | 12 | 10 | 210 | 228 | 297 | 0 | 0 | 297 | 90 | 90 | 0 | 0 | 11 |
| Renville | 1 | 1 | 22 | 23 | 383 | 1 | 0 | 384 | 0 | 0 | 0 | 0 | 0 |
| Rolette | 26 | 31 | 609 | 630 | 840 | 16 | 0 | 856 | 68 | 69 | 0 | 0 | 6 |
| Sargent | 1 | 1 | 58 | 61 | 164 | 1 | 0 | 165 | 53 | 55 | 0 | 0 | 2 |
| Sheridan | 0 | 0 | 0 | 0 | 53 | 0 | 0 | 53 | 11 | 10 | 0 | 0 | 0 |
| Sioux | 2 | 2 | 14 | 14 | 22 | 0 | 0 | 22 | 9 | 10 | 0 | 0 | 0 |
| Slope | 1 | 1 | 4 | 9 | 81 | 0 | 0 | 81 | 1 | 1 | 0 | 0 | 1 |
| Steele | 4 | 0 | 9 | 8 | 204 | 0 | 0 | 204 | 14 | 13 | 5 | 2 | 0 |
| Towner | 4 | 4 | 119 | 119 | 442 | 3 | 0 | 445 | 31 | 29 | 0 | 0 | 2 |
| Traill | 14 | 16 | 156 | 155 | 574 | 1 | 0 | 575 | 167 | 156 | 1 | 1 | 22 |
| TOTAL | 148 | 152 | 2,920 | 3,008 | 20,977 | 54 | 0 | 21,031 | 1,640 | 1,662 | 83 | 84 | 135 |

# County Courts

County courts have exclusive original jurisdiction in probate and testamentary matters, including the appointment of administrators and guardians. The same 36 counties which have county justice courts also have county courts.

The jurisdiction of the county court is limited strictly by statute and case law. Matters which are closely related to probate and testamentary issues and may arise in probate cases cannot be tried in a county court.

By statute, appeals are taken from the county court to the district court. North Dakota statutes appear to require probate proceedings in the county court to be on the record, but the current practice is to the contrary. Thus the usual method of appeal is a trial de novo in district court and not a trial on the record or transcript of testimony.

There is no requirement that the judge of the county court be trained in the law and the office is usually filled by a lay judge. All county judges run for election every four years. The office of county judge is combined with the office of clerk of the district court in rural counties.

Probate filings increased by 13 percent and guardianship and conservatorship filings by 16 percent in 1982. This compares to increases of 6 percent for probate cases and 74 percent for guardianship and conservatorship in 1981. The fact that this is the second year of an increase may signal the reversal of the previous downward trend in probate filings which followed North Dakota's adoption of the Uniform Probate Code.

While probate dispositions increased at the same rate (13%) as probate filings during 1982, guardianship and conservatorship dispositions declined slightly (2%). It is too early to discern whether the increases recorded here represent actual increases or just better reporting on the part of the county courts.

Given the long term nature of probate and guardianship and conservatorship cases, it is not surprising to find that the number of pending probate and guardianship and conservatorship cases keep increasing. As the state's population ages, however, the number of pending guardianship and conservatorship cases can be expected to decrease while the number of pending probate cases should increase.

In viewing the probate data in Tables 20 and 21, it should be remembered that the informal filing and dispositional procedure established by the Uniform Probate Code makes it difficult to obtain an accurate count of probate filings, dispositions, and pending cases. This difficulty may also explain some of the differences among the counties.

## TABLE 20
## CASELOAD SYNOPSIS OF COUNTY COURTS FOR THE CALENDAR YEARS 1981 AND 1982

| | 1982 | 1981 | Percent Difference |
|---|---|---|---|
| New Filings | 1,807 | 1,594 | 13.4 |
| Cases Carried Over From Previous Year | 4,373 | 3,993 | 9.5 |
| Total Cases Docketed | 6,180 | 5,587 | 10.6 |
| Dispositions | 1,362 | 1,214 | 12.2 |
| Cases Pending As of December 31 | 4,818 | 4,373 | 10.2 |

## TABLE 21
## COUNTY COURT FILINGS AND DISPOSITIONS CALENDAR YEAR 1982

| County | Probate | | Guardianship/ Conservatorship | | Total | |
|---|---|---|---|---|---|---|
| | (F) | (D) | (F) | (D) | (F) | (D) |
| Adams | 25 | 24 | 4 | 10 | 29 | 34 |
| Billings | 5 | 12 | 2 | 0 | 7 | 12 |
| Bottineau | 89 | 46 | 7 | 0 | 96 | 46 |
| Bowman | 45 | 56 | 9 | 4 | 54 | 60 |
| Burke | 51 | 35 | 2 | 2 | 53 | 37 |
| Cavalier | 69 | 58 | 6 | 2 | 75 | 60 |
| Dickey | 45 | 18 | 6 | 2 | 51 | 20 |
| Divide | 62 | 48 | 11 | 1 | 73 | 49 |
| Dunn | 41 | 24 | 3 | 0 | 44 | 24 |
| Eddy | 23 | 10 | 0 | 0 | 23 | 10 |
| Emmons | 35 | 75 | 8 | 28 | 43 | 103 |
| Foster | 28 | 25 | 0 | 0 | 28 | 25 |
| Golden Valley | 27 | 6 | 2 | 2 | 29 | 8 |
| Grant | 26 | 27 | 0 | 0 | 26 | 27 |
| Griggs | 21 | 16 | 1 | 1 | 22 | 17 |
| Hettinger | 37 | 19 | 2 | 0 | 39 | 19 |
| Kidder | 17 | 13 | 2 | 1 | 19 | 14 |
| Logan | 17 | 19 | 1 | 0 | 18 | 19 |
| McHenry | 67 | 46 | 4 | 0 | 71 | 46 |
| McIntosh | 39 | 31 | 4 | 0 | 43 | 31 |
| McKenzie | 91 | 51 | 5 | 2 | 96 | 53 |
| Mclean | 244 | 108 | 17 | 14 | 261 | 122 |
| Mountrail | 82 | 75 | 5 | 3 | 87 | 78 |
| Nelson | 53 | 32 | 7 | 5 | 60 | 37 |
| Oliver | 10 | 5 | 6 | 0 | 16 | 5 |
| Pembina | 67 | 57 | 5 | 1 | 72 | 58 |
| Pierce | 27 | 18 | 7 | 0 | 34 | 18 |
| Renville | 36 | 31 | 7 | 1 | 43 | 32 |
| Rolette | 36 | 15 | 5 | 4 | 41 | 19 |
| Sargent | 31 | 18 | 5 | 1 | 36 | 19 |
| Sheridan | 20 | 34 | 2 | 3 | 22 | 37 |
| Sioux | 9 | 3 | 1 | 0 | 10 | 3 |
| Slope | 15 | 8 | 8 | 0 | 23 | 8 |
| Steele | 30 | 32 | 3 | 0 | 33 | 32 |
| Towner | 39 | 134 | 10 | 2 | 49 | 136 |
| Traill | 73 | 42 | 8 | 2 | 81 | 44 |
| TOTAL | 1,632 | 1,271 | 175 | 91 | 1,807 | 1,362 |

# Municipal Courts

There are 365 incorporated cities in North Dakota. Of the total municipalities, 162 cities have municipal courts. There are 153 judges serving these 162 municipalities. State law permits an individual to serve more than one city as a municipal judge.

**In 1981 the Legislature amended the state law pertaining to municipalities to allow each municipality the option of deciding whether or not to have a municipal judge. Before this amendment, all incorporated municipalities were required to establish a municipal court. Despite this requirement, those incorporated cities which did not have a police force tended not to have a municipal court.**

The municipal judges have exclusive jurisdiction of all violations of municipal ordinances, except certain violations involving juveniles. Violations of state law are not within the jurisdiction of the municipal courts.

A municipal judge is elected for a four-year term. He must be a qualified elector of the city, except in cities with a population below 3,000. In cities with a population of 3,000 or more the municipal judge is required to be a licensed attorney unless an attorney is unavailable or not interested in serving. At present, there are 20 legally-trained and 133 lay municipal judges in the state.

State law requires that each municipal judge attend at least one educational seminar per calendar year conducted by the supreme court. If a municipal judge fails to meet this requirement without an excused absence from the supreme court, his name is referred to the Judicial Qualifications Commission for such disciplinary action as is deemed appropriate by the Commission.

Traffic cases comprise the bulk of the cases processed by municipal courts. In Fargo, for example, over 87 percent of the cases disposed of by the municipal court in 1982 were traffic cases. Of the remaining cases, 5.4 percent involved thefts and shoplifting, 3.1 percent concerned violation of liquor laws, 2.9 percent were disorderly conduct cases, 1.3 percent related to the license and control of animals, and less than 1 percent were miscellaneous violations.

In contrast to the traffic cases disposed of in the county courts with increased jurisdiction and the county justice courts, the number of traffic cases disposed of by municipal courts increased in 1982. As shown in Table 22, most of these dispositions resulted in convictions.

The majority (78%) of all traffic cases are processed by ten communities, or less than 3 percent of all municipalities in the state. Within these ten communities, the greatest increase in traffic dispositions have occurred in those cities which are in the western part of the state. This probably reflects population increases and other social and economic changes brought about by the recent surge of energy development in the western part of the state.

Of the municipal courts' traffic caseload, approximately 91 percent are administrative traffic cases. Administrative traffic cases can be processed in less time than it takes to dispose of criminal traffic matters. There is a lesser degree of burden of proof for administrative traffic cases. In addition, the majority of the less serious traffic cases are disposed of with bond forfeitures. While no judge time is needed to process bond forfeitures, support personnel in the office of clerk of municipal court must account for every citation received by the court.

## TABLE 22

### COMPARISON OF ALL MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR CALENDAR YEARS 1981 AND 1982

| Type of Dispositions | Criminal Traffic Dispositions | | Noncriminal Traffic Dispositions | | Total Traffic Dispositions | | Percent Difference |
|---|---|---|---|---|---|---|---|
| | 1982 | 1981 | 1982 | 1981 | 1982 | 1981 | |
| Conviction | 4,413 | 4,201 | 46,660 | 44,635 | 51,073 | 48,836 | 4.6 |
| Acquittal | 760 | 328 | 2,013 | 839 | 2,773 | 1,167 | 137.6 |
| Dismissal | 47 | 23 | 139 | 43 | 186 | 66 | 181.8 |
| TOTAL | 5,220 | 4,552 | 48,812 | 45,517 | 54,032 | 50,069 | 7.9 |

## TABLE 23

### COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR SELECTED MUNICIPALITIES FOR CALENDAR YEARS 1981 AND 1982

| Municipalities With Highest Case Volume | Criminal Traffic Dispositions | | Noncriminal Traffic Dispositions | | Total Traffic Dispositions | | Percent Difference |
|---|---|---|---|---|---|---|---|
| | 1982 | 1981 | 1982 | 1981 | 1982 | 1981 | |
| Bismarck | 502 | 374 | 6,929 | 5,901 | 7,431 | 6,275 | 18.4 |
| Dickinson | 340 | 188 | 2,710 | 2,870 | 3,050 | 3,058 | - .3 |
| Fargo | 435 | 407 | 4,475 | 4,077 | 4,910 | 4,484 | 9.5 |
| Grand Forks | 684 | 744 | 3,391 | 3,906 | 4,075 | 4,650 | -12.4 |
| Jamestown | 186 | 102 | 3,623 | 2,263 | 3,809 | 2,365 | 61.1 |
| Mandan | 243 | 166 | 2,297 | 1,333 | 2,540 | 1,499 | 69.5 |
| Minot | 605 | 541 | 8,007 | 7,581 | 8,612 | 8,122 | 6.0 |
| Wahpeton | 205 | 160 | 1,021 | 882 | 1,226 | 1,042 | 17.7 |
| West Fargo | 156 | 112 | 877 | 805 | 1,033 | 917 | 12.7 |
| Williston | 498 | 546 | 4,824 | 4,576 | 5,322 | 5,122 | 3.9 |
| TOTAL | 3,854 | 3,340 | 38,154 | 34,194 | 42,008 | 37,534 | 11.9 |

# Administration of the Judicial System

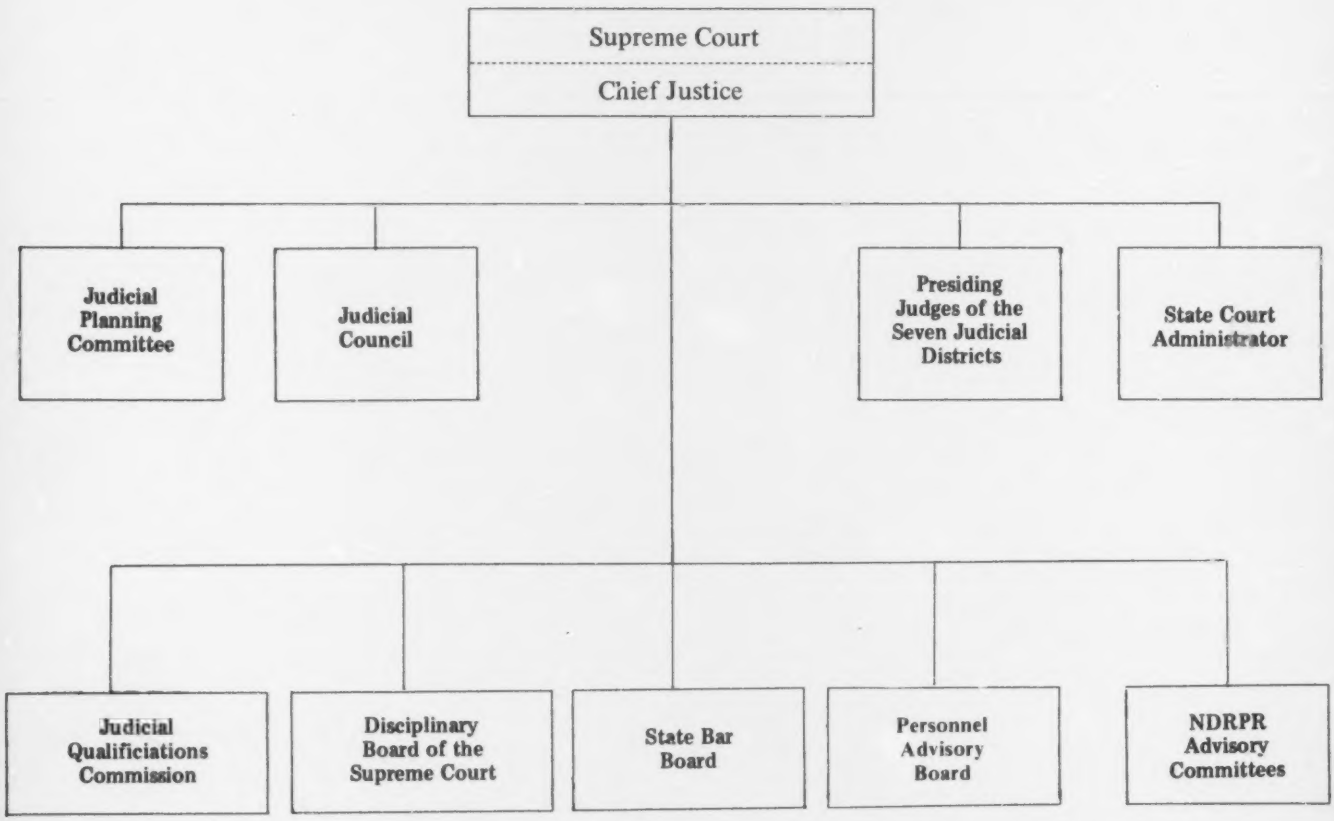
Ultimate responsibility for the efficient and effective operation of the judicial system resides with the supreme court. The constitution has emphasized the supreme court's administrative responsibility for the judicial system by designating the chief justice as the administrative head of the judicial system. In addition, the state constitution also grants the supreme court supervisory authority over the legal profession. Article VI, Section 3 states that the supreme court shall have the authority, "unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarments of attorneys at law."

To help it fulfill these administrative and supervisory responsibilities, the supreme court relies upon the state court administrator, presiding judges, and various advisory committees, commissions and boards. The functions and activities of these various bodies during 1982 are described in the subsequent pages of this report.

A diagram of the administrative organization of the North Dakota judicial system is provided in Figure 8.

FIGURE 8

ADMINISTRATIVE ORGANIZATION OF THE NORTH DAKOTA JUDICIAL SYSTEM



# Office of State Court Administrator

Article VI, Section 3 of the North Dakota Constitution authorizes the chief justice of the supreme court to appoint a court administrator for the unified judicial system. Pursuant to this constitutional authority, the supreme court has outlined the powers, duties, qualifications and term of the state court administrator in an administrative rule. The duties delegated to the state court administrator include assisting the supreme court in the preparation of the judicial budget, providing for judicial education services, coordinating technical assistance to all levels of courts, and planning for statewide judicial needs.

### Legislation

The State Court Administrator is responsible for monitoring legislation affecting the judiciary and providing legislative committees with information about the state's courts. He also has the responsibility for obtaining legislative sponsors for legislation endorsed by the Supreme Court and the Judicial Council.

Although the Legislature is not in session in 1982, interim legislative committees are considering several legislative proposals which would have a significant impact on the judicial system. The most important of these proposals is a retirement bill which would equalize retirement benefits for state judges by placing all district and supreme court judges under the same retirement system. Another proposal under consideration would give county courts concurrent jurisdiction with district courts in trust and equity cases. Proposed legislation which focuses on guardianships for and deinstitutionalization of developmentally disabled persons would also affect courts in some significant areas.

In addition, several legislative proposals for introduction into the 1983 Legislature are being considered by various judicial agencies. One of the most important bill drafts being considered is a resolution calling for a legislative study of methods to help relieve the Supreme Court of its growing caseload burden. Judicial agencies are also considering legislative proposals for shifting authority for retention and destruction schedules for district court and county court records from the Legislature to the Supreme Court, modifying the procedures for demanding a change of judge, and permitting the presiding judge to assign mental health and commitment hearings to district court judges. Much of the prospective legislation being considered involves only housekeeping amendments to eliminate minor conflicts, discrepancies, and inconsistencies in current law.

### Judicial Education

Under the guidance and supervision of the Judicial Council Committee on Judicial Training, the Office of State Court Administrator develops and coordinates training programs for all levels of judicial and court support personnel. In addition, a number of other professional development and information activities are coordinated and conducted under the auspieces of the state court administrator. These activities are described in greater detail in the section of this report which discusses the activities of the Judicial Training Committee and other committees which perform judicial educational functions.

### Judicial Planning

Staff services are provided to the Judicial Planning Committee and other advisory committees of the supreme court by the planning staff in the state court administrator's office. The duties of these staff personnel include research, bill drafting, rule drafting, arrangement of committee meetings, and such other tasks that are assigned by the various committees. Specific activities and projects of the different supreme court standing committees are provided in a latter section of this report.

### Administrative Functions

The court administrator's office also performs a variety of ongoing administrative functions. These include overseeing special projects, staffing and coordinating Judicial Council committees, managing the court information system, and coordinating juvenile court services.

During 1982, substantial progress was made in the revision of the Judicial Information System. The Judicial Information System Committee, chaired by South Central Judicial District Court Administrator Dee Hanson, approved several changes in the information system based on the results of a survey questionnaire sent to judges and court personnel. These changes were consistent with the contemplated revision to the docket currency standards established by AR 12-1980. They will be tested during the second half of 1982 and implemented during the first quarter of 1983.

### Fiscal Responsibilities and the Judicial Budget

One of the court administrator's primary responsibilities is the management of the judicial budget. With the passage of the county courts' bill in 1981, the judicial budget was expanded to incorporate most of the district courts' costs, as of July 1, 1981. Prior to the state assumption of these costs, the judicial budget included only the salaries of district court judges and the salaries and operating expenses of the North Dakota Supreme Court and staff.

A new fiscal division was established within the Court Administrator's Office in 1981 to assist the supreme court in carrying out its increased fiscal responsibilities. This new division is responsible for the coordination and preparation of the judicial budget, preparation and analysis of monthly budget status reports, assistance in the development of judicial budgetary policies, and the maintenance of payroll records for judicial employees.

Different aspects of the judicial budget are presented in Figures 9, 10, and 11. As Figure 9 illustrates, even with the addition of most district court expenses to the judicial budget, the judicial budget constitutes only a small segment of the total funds appropriated by the legislature for the 1981-1983 biennium. However, this is not to say that the budgetary impact of the additional expenses was minimal. As a result of the new budgetary responsibilities, the judicial portion of the state budget doubled the 1979-1981 biennium.

The impact of the county courts' bill can also be seen in the way in which the judicial budget is allocated. Whereas in the 1979-1981 biennium the supreme court portion of the judicial budget was 41 percent, in the 1981-1983 biennium it is only 21 percent.

While over $16 million were appropriated for the supreme court for the 1981-1983 biennium, the supreme court adopted budgetary policies in late 1981 designed to help it return five percent of its budget to the state at the end of the biennium. These policies were adopted in response to the Governor's request that all state agencies reduce their expenditures by five percent in order to help ease the State's anticipated shortfall in revenues.

## FIGURE 9

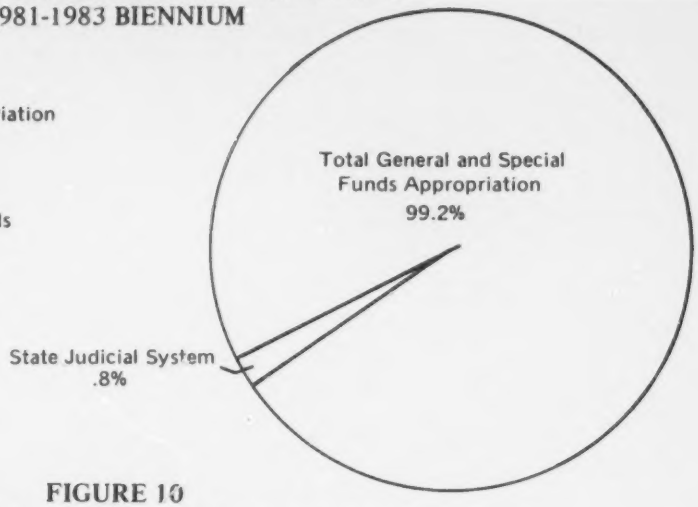
### JUDICIAL PORTION OF THE STATE'S BUDGET
### 1981-1983 BIENNIUM

Total General and Special Funds Appropriation

$ 2,110,765,070

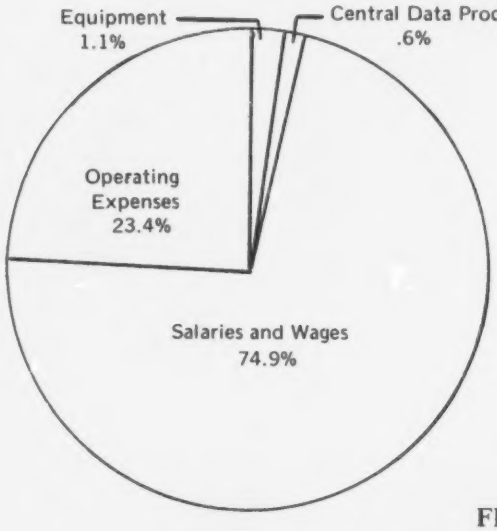
Judicial System General and Special Funds Appropriation

$16,008,845




## FIGURE 10

### STATE JUDICIAL SYSTEM APPROPRIATION BY TYPE OF ACTIVITY
### 1981-1983 BIENNIUM




Total Judicial System General and Special Funds Appropriation

$16,008,845

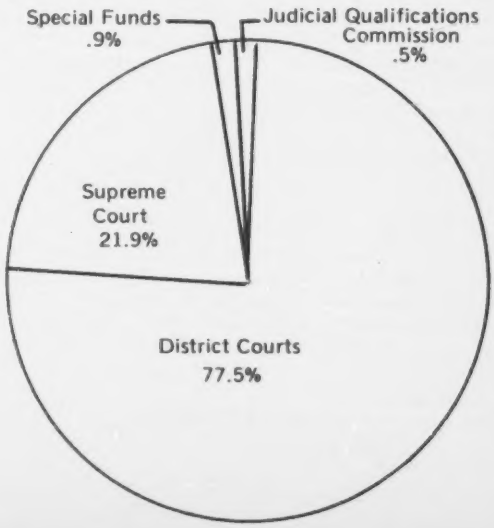
| | |
|---|---|
| Salaries and Wages | $11,999,925 |
| Operating Expenses | 3,743,620 |
| Central Data Processing | 91,000 |
| Equipment | 174,300 |

## FIGURE 11

### STATE JUDICIAL SYSTEM APPROPRIATION BY TYPE OF COURT
### 1981-1983 BIENNIUM

| | |
|---|---|
| Supreme Court | |
| General Fund | $ 3,388,166 |
| Special Funds | 60,000 |
| TOTAL | $ 3,448,166 |
| District Courts | |
| General Fund | $12,403,116 |
| Special Funds | --- |
| TOTAL | $12,403,116 |
| Judicial Qualification Commission | |
| General Fund | $ 78,782 |
| Special Funds | 78,781 |
| TOTAL | $ 157,563 |

**Special Funds received include federal grant funds and funds from the State Bar Association for disciplinary procedures.*



# Advisory Committees of the Supreme Court

There are six standing advisory committees of the supreme court which assist the court in its administrative supervision of the North Dakota judicial system. Four of these committees — the Joint Procedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee, and the Court Services Administration Committee — were established by the supreme court in 1978 as an essential part of its rulemaking process (NDRPR). One of these committees, the Joint Procedure Committee existed before the supreme court adopted its rulemaking process, but was incorporated into the advisory committee structure created by the supreme court rulemaking process. A fifth advisory committee, the Judicial Planning Committee, was established by supreme court rule in 1976. The supreme court established the sixth committee, the Personnel Advisory Board, in 1982.

**The Judicial Planning Committee**

**The Judicial Planning Committee is the forum for overall planning for judicial services in North Dakota. It is chaired by Justice Vernon R. Pederson and its membership includes representatives of presiding judges, attorneys, district, county, and municipal judges, court support personnel, and the public. The role of the Committee is to identify, describe, and clarify problem areas which can be referred to judicial leaders and other standing committees for resolution.**

**As part of its planning process, the Committee prepares a *Judicial Master Program* for the upcoming biennium which sets the goals, objectives, and tasks for the judicial system. In addition, it also prepares the *North Dakota Judicial Planning Committee Working Papers*.** These *Working Papers* contain a description and analysis of court structures and services and identify specific problems and needs within each subject area.

Much of the Committee's efforts during 1982 were spent preparing the *Judicial Master Program for the Biennium Ending June 30, 1985*. This *Judicial Master Program* was based on the local district plans submitted to the Committee and the results of a questionnaire on court services in North Dakota sent to attorneys, judges, court personnel, and representatives of the public. This year marked the first time in which the planning process was coordinated with the budgeting process to establish priorities for the North Dakota judicial system.

During 1982 the Committee also considered a variety of judicial issues and problems. These included courtroom security in North Dakota, bail and detention procedures in DWI cases, juvenile court services, and docket control remedies for the supreme court. The issue of juvenile court services in North Dakota was referred to the Juvenile Procedures Committee for further study. A Committee recommendation that the supreme court request the Legislature to adopt a study resolution calling for legislative study of the supreme court's workload and possible methods of caseload relief was endorsed by the Judicial Council and adopted by the supreme court.

**The Joint Procedure Committee**

The Joint Procedure Committee is composed of ten judges representing the judiciary, and ten attorneys representing the State Bar Association of North Dakota. The Committee is chaired by Justice Paul M. Sand, North Dakota Supreme Court. David Lee serves as full-time staff counsel for the Committee. The North Dakota Constitution, Article VI, Section 3, authorizes the Supreme Court to "promulgate rules of procedure, including appellate procedure, to be followed by all the courts of this state ..." The Committee's duties include study, discussion, and revision of the procedural rules of North Dakota, including the Rules of Civil Procedure, Criminal Procedure, Appellate Procedure, Evidence, and other rules of pleading, practice, and procedure. The Committee proposes amendments to existing rules or the adoption of new procedural rules when appropriate to the Supreme Court.

Since publication of the bound volume of rules in 1981, the Committee has adopted amendments to the following rules: Rules 4, 50, 53, 54, 59, 60 and 62, North Dakota Rules of Civil Procedure; Rules 16, 17, 35, 41 and 44, North Dakota Rules of Criminal Procedure; Rule 30, North Dakota Rules of Appellate Procedure; and Rules 3.2, 8.2, 11.5 and 11.6, North Dakota Rules of Court. In addition, several explanatory notes were amended. The Committee will be submitting those amendments to the North Dakota Supreme Court with a recommendation that they be adopted in early 1983.

The Committee is continuing its review of the discovery process in civil actions and of the Uniform Rules of Criminal Procedure (1974).

**The Attorney Standards Committee**

The Attorney Standards Committee studies and reviews all rules for attorney supervision. Edmund Vinje, II, of Fargo, is the chairman of the Committee.

During 1982 the Committee submitted a proposal to amend the Rule on Procedural Rules, Administrative Rules and Administrative Orders of the North Dakota Supreme Court (NDRPR) to delegate supreme court authority in the areas of mandatory continuing legal education and the Code of Professional Responsibility to the State Bar Association of North Dakota. A significantly modified version of the proposal was adopted by the supreme court. At the recommendation of the Committee, the supreme court also agreed to fund a study of the attorney disciplinary process in North Dakota by the American Bar Association.

The Committee also undertook a study of bar admission regulations and procedures in North Dakota. Based on this study, it recommended to the supreme court that the Admission to Practice Rule be amended and that the court request the 1983 Legislature to amend certain bar admission statutes and repeal others. The Committee conducted a review of the mandatory continuing legal education rules and submitted proposals for modifying these rules to permit CLE credit for advisory committee work to the Continuing Legal Education Commission of the State Bar Association for further consideration.

At the end of 1982 the Committee was studying the impact of a recent United States Court decision on the lawyer advertising provisions of the North Dakota Code of Professional Responsibility. It was also monitoring developments related to the A.B.A.'s consideration of a new set of model rules of professional conduct for attorneys.

**The Judiciary Standards Committee**

The Judiciary Standards Committee, chaired by Lowell Lundberg, studies rules of judicial discipline, judicial ethics, the judicial nomination process, and all other rules relating to the supervision of the judiciary.

In 1982 the Committee recommended to the supreme court that it amend AR 11-1980 and seek the amendment of Section 27-02-01, NDCC, in order to clarify which justice of the supreme court has the leadership responsibilities of the chief justice in his absence. Action on the proposed recommendation is still pending.

Other topics under study by the Committee and its various subcommittees include conflict of interest problems encountered by part-time judges, the need for media guidelines for judges, and judicial disciplinary procedures in North Dakota.

**Court Services Administration Committee**

The Court Services Administration Committee studies and reviews all rules and orders pertaining to the administrative super-

vision of the judicial system. It is chaired by William Strutz of Bismarck.

Several of the Committee's recommendations were adopted by the supreme court in 1982. Among the most important of these recommendations were a rule establishing the qualifications and authority of county magistrates, the application of docket currency standards to county courts, the establishment of a self-disqualification procedure for municipal judges and the amendment of AR 16 to route municipal court appeals to the new county courts. After reviewing and modifying a proposed rule establishing retention procedures and destruction schedules for district court records submitted to it by a special committee of district court clerks, the Committee also recommended its adoption by the supreme court. The supreme court promulgated the rule contingent upon legislation passed by the 1983 Legislature.

The Committee drafted and reviewed several legislative proposals relating to various aspects of court administration and judicial procedures and submitted them to the supreme court for its review. The supreme court has referred these proposals to the Judicial Council for review.

Committee recommendations concerning docket control remedies for the supreme court, an experimental period for telephonic motion conferences, and the repeal of the change of judge procedures for county courts of increased jurisdiction are still pending with the supreme court. Other matters considered by the Committee include the need for jury bailiff guidelines, disqualification procedures for supreme court justices, and an orderly procedure for the development of legislative proposals within the judicial system.

**Personnel Advisory Board**

The Supreme Court created the Personnel Advisory Board on January 21, 1982 when it adopted Policy 106. The Board is composed of five members appointed by the Chief Justice. Justice Vernon R. Pederson is chairman of the Board. Also serving on the Board are District Judge John O. Garaas, East Central Judicial District; and three employees, Patricia Thompson, Northeast Central Judicial District; Jim Hallen, Southwest Judicial District; and Phil Stenehjem of the Northwest Judicial District.

The Board was created to meet periodically to provide recommendations to the Chief Justice in the areas of classification and reclassification review, salary reviews, grievances, performance evaluation reviews, recommendations of personnel policy matters, and other matters as assigned by the Chief Justice. The Personnel Board has been meeting since March. The first item of business was review of any reclassification arising out of the adoption of the judiciary's pay and classification plan. Of the ten reviews submitted to the State Court Administrator for reconsideration, only three needed further review by the Personnel Advisory Board with a recommendation going to the Chief Justice.

In addition to the initial administration of a pay and classification plan, the Advisory Board has considered a policy on professional development for court support personnel and an employee assistance program policy.

During the year the Advisory Board also began looking at the creation of a performance appraisal system. Systems from other states, local units of government, and the private sector were reviewed for possible application in the North Dakota Judicial System. At the end of the year a system was tested in the South Central Judicial District. A recommendation based on the results of this testing will be submitted to the Supreme Court in early 1983.

Work is underway on the creation of a Supreme Court component of the personnel system. Working drafts of a pay and classification plan have been submitted to a subcommittee of the Supreme Court chaired by Justice Gerald VandeWalle.

# North Dakota Legal Counsel for Indigents Commission

The North Dakota Legal Counsel for Indigents Commission was created by supreme court rule on June 29, 1981. The Commission is composed of seven members who are appointed by the chief justice. Bruce Bohlman of Grand Forks is the chairman of the Commission.

The Commission's main function is to provide a mechanism for the resolution of counsel fee disputes between judges and court appointed attorneys who are representing indigent defendants in criminal, mental health, and juvenile cases. It also provides technical assistance concerning indigent defense services to judicial districts and counties. The funds appropriated by the Legislature for indigent defense services in the district courts are administered through the Office of the State Court Administrator.

Since its formation the Commission has adopted rules for its review of counsel fee disputes and developed guidelines and forms in various areas relating to indigent defense services. These guidelines relate to: 1) criteria for determining eligibility for the appointment of counsel for indigent defendants; 2) procedures for the payment of counsel fees and expenses for indigent defendants in counties where counsel for indigents are court appointed; 3) reimbursement procedures for retrieving the costs of attorney services from defendants who have adequate financial resources; and 4) procedures for reviewing a trial judge's decision regarding fees charged by counsel for indigent defendants. The Commission has also developed a model contract for judicial districts and counties wishing to contract with attorneys for indigent defense services and is in the process of formulating model bid procedures for these judicial districts and counties.

Other topics under consideration by the Commission include the rising costs of indigent defense services, the conflict of interest problems arising from the placement of the administrative responsibility for indigent services in the judicial branch, and judicial involvement in the payment of prosecution witness fees. The Commission has also been working with the State's Attorneys Association in an effort to encourage and facilitate collection of indigent defense costs from defendants who can afford to reimburse the county or state for these costs.

# The State Bar Board

The North Dakota State Bar Board was created by statute in 1919. One of its duties is to administer a bar examination at least once a year. Recommendations for admission to the bar are made to the supreme court by the Bar Board based upon the results of the written examination and a character investigation. Annual license fees of attorneys are collected by the State Bar Board and licenses issued. Each year the Bar Board publishes a directory of attorneys and judges. In 1982, there were 1,257 attorneys licensed to practice in this state compared with 1,184 the previous year.

The statute creating the State Bar Board provides for a three-member board comprised of resident, licensed members of the Bar of North Dakota appointed by the Supreme Court. The terms are for six years. The members of the Board during 1982 were E. Hugh McCutcheon of Minot, President; John D. Kelly of Fargo and Malcolm H. Brown of Mandan. Mr. McCutcheon's term expired on December 31, 1982. He had served eight years as a member, five of them as President. The Clerk of the Supreme Court serves as ex-officio Secretary-Treasurer of the State Bar Board.

Two bar examinations were administered in 1982, a February exam in Bismarck and the July exam in Grand Forks. Nineteen individuals sat for the bar exam in Bismarck and 92 in Grand Forks. Of the 19 who took the bar exam in Bismarck, four were graduates of the North Dakota School of Law at Grand Forks. In July 66 of the 92 were graduates of UND's Law School. Eighty-four of the total applicants, or 76%, successfully completed the exams.

Ninety-two individuals were admitted to the North Dakota Bar in 1982. Nine of those admissions were individuals who were admitted on motion, having practiced law in another state for the required period of time.

# Disciplinary Board of the Supreme Court

The Disciplinary Board of the Supreme Court provides a method for investigating and evaluating complaints of alleged unethical conduct by attorneys in North Dakota.

The Board's secretary receives citizen's complaints and forwards them to the Board. A letter acknowledging receipt of a complaint is sent to the complaining party and the complaint is sent to the Chairman of either the East or West Inquiry Committee, depending on where the attorney lives. Each Inquiry Committee consists of nine lawyer members named by the State Bar Association to assist the Disciplinary Board by conducting the initial investigations of the complaints. All parties to a complaint have a right to appear before the committee.

If a committee finds a complaint to be without merit, it will dismiss the complaint and send notification of such dismissal to the parties. If, however, the complaint is determined to have merit, the investigative report and complaint are forwarded to the Disciplinary Board with a recommendation for some form of discipline.

If the Board believes there is probable cause for public discipline, a formal hearing will be held before a hearing officer, a hearing panel or the entire Board. Once this hearing has been conducted, the complaint may be dismissed, a private reprimand issued or a recommendation may be made to the supreme court for public reprimand, suspension, disbarment or other disciplinary action. Briefs are filed and the case is argued before the supreme court. The court reviews the record and recommendations and can adopt the recommendations of the Disciplinary Board or make such determination as it deems appropriate.

The Disciplinary Board consists of ten members; seven lawyer members representing each judicial district and three non-lawyer members chosen from the state at large. Current members of the Disciplinary Board are: David L. Peterson of Bismarck, Chairman; Mark Stenehjem of Williston, Vice-Chairman; Jon Arntson, West Fargo; Sandi Lang Frenzel, Dickinson; Gerald Galloway, Dickinson; Carlan Kraft, Rugby; Ann McLean, Hillsboro; Ruth Meiers, Ross; Ronald Splitt, LaMoure; and Robert Vaaler, Grand Forks. Luella Dunn, Clerk of the Supreme Court, serves as Secretary and Vivian E. Berg is staff counsel.

Following is a summary of the complaints handled by the Disciplinary Board in 1982. This year marked the first time an attorney petitioned for disability inactive status under Rule 17 of the Rules of Disciplinary Procedure. Included in complaints pending at December 31, 1982, are 8 complaints in which formal disciplinary proceedings have been instituted.

**TABLE 24**
**SUMMARY OF DISCIPLINARY BOARD COMPLAINTS FOR THE YEAR 1982**

| | |
|---|---|
| New Complaints filed for the year 1982 | 80 |
| **General nature of new complaints filed:** | |
| Neglect - Delay | 19 |
| Conflict of Interest | 6 |
| Failure to Protect Client Relationship | 2 |
| Excessive Fees | 14 |
| Failure to Communicate with Client | 3 |
| Improper Conduct | 10 |
| Lack of Competence | 16 |
| Misrepresentation/Fraud | 9 |
| Unauthorized Practice of Law | 1 |
| **TOTAL** | 80 |
| Disciplinary Proceedings pending from prior year | 15 |
| Complaints carried over from previous year | 22 |
| Total Complaints for consideration in 1982 | 117 |
| **Disposition of Complaints:** | |
| Dismissed by Inquiry Committee | 58 |
| Dismissed by Hearing Panel | 1 |
| Private Reprimands Issued | 12 |
| *Disability Petition Filed | 5 |
| **Suspension | 8 |
| Complaints Pending 12/31/82 | 33 |
| **TOTAL** | **117** |

**One individual having 5 separate complaints against him petitioned for disability status. This matter is still pending before the Court.*

***Three separate complaints against one individual and 5 separate complaints against another resulted in two attorneys being suspended in 1982.*

# Judicial Qualifications Commission

The Judicial Qualifications Commission was created by the Legislature in 1975 to investigate complaints against judges of the courts in the state of North Dakota and to conduct hearings concerning the discipline, removal or retirement of any judge. The Commission is a way in which the legal and judicial professions, with citizen assistance, help ensure that the people of this state receive the best possible judicial services. The Commission is not designed, however, to participate in or change the outcome of any legal matter nor is it a substitute for the regular appeal process.

Written complaints are filed by the Secretary of the Commission, acknowledged, and forwarded to the staff counsel for investigation. The judge must respond to the complaint in writing and both sides are afforded an opportunity to be fully heard.

When the investigation is completed it is submitted to the Commission. If the Commission finds the complaint unwarranted, it will dismiss the complaint. If the Commission determines that the conduct constitutes a minor violation of the Rules of Judicial Conduct, it may privately censure the judge.

In cases where probable misconduct has occurred, a formal hearing is held before the Commission or before a master appointed by the supreme court. After completion of the formal hearing, the Commission may either dismiss the complaint, send a letter of private censure or recommend to the supreme court the public censure, removal, suspension, retirement or other discipline of the judge. It is the supreme court that determines the degree of discipline imposed.

The Commission is comprised of seven members: one district judge, one county judge, one attorney and four citizen members. The current members are: Ronald Klecker of Minot, Chairman; Norene Bunker of Fargo, Vice-Chairman; Judge Gary A. Holum, Minot; Lowell Lundberg, Fargo; Judge William Neumann, Rugby; Ernest Pyle, West Fargo; and Louise Sherman, Dickinson. Luella Dunn, Clerk of the Supreme Court, is secretary to the Commission and Vivian Berg serves as staff counsel for the Commission.

The Judicial Qualifications Commission began 1982 with 17 cases pending from previous years. During the year 22 new complaints were filed with the Commission. The Commission took action on 31 of the 39 complaints before it in 1982. Table 25 illustrates the nature of the complaints and their dispositions.

**TABLE 25**

**JUDICIAL QUALIFICATIONS COMMISSION**
**SUMMARY OF COMPLAINTS**
**FOR THE YEAR 1982**

| | |
|---|---|
| New Complaints filed for the year 1982 | 22 |
| General nature of new complaints filed: | |
| Lack of Judicial Temperament in Court | 3 |
| Failure to Comply with the Law | 4 |
| Improper Conduct | 1 |
| Biased Decisions | 1 |
| Delay in Rendering a Decision | 3 |
| Failure to afford Complainant Due Process | 4 |
| Alleged Outside Influence on Decision | 5 |
| Questionable Judicial Campaigning Practice | 1 |
| **TOTAL** | **22** |
| Formal Proceedings pending from prior years | 3 |
| Complaints carried over from previous year | 14 |
| Total Complaints for consideration in 1982 | 39 |
| Disposition of Complaints: | |
| Dismissed | 22 |
| Private Censure | 2 |
| *Suspension | 7 |
| Complaints Pending 12/31/82 | 8 |
| **TOTAL** | **39** |

Of the 22 complaints filed in 1982:
- 10 were against municipal judges
  - (1 private censure)
- 10 were against county judges with increased jurisdiction
- 1 was against a county justice
  - (1 private censure)
- 1 was against a small claims referee

**7 separate complaints against one judge resulted in a suspension.*

# Judicial Council

The North Dakota Judicial Council was established as an arm of the judicial branch of state government in 1927. Present statutory language governing the Judicial Council is found in Chapter 27-15, NDCC.

There are currently 68 members of the Judicial Council. Of these, the dean of the School of Law at the University of North Dakota, the attorney general, and all supreme court justices, district court judges, and county court with increased jurisdiction judges are *ex officio* members of the Council. In addition, all retired supreme court justices and district court judges are Council members. The non-*ex officio* members of the Council include five members of the practicing bar appointed by the Board of Governors of the State Bar Association of North Dakota and two county justices, two county court judges, and two municipal judges appointed by the North Dakota Supreme Court.

All non-*ex officio* Council members serve for two year terms while retired supreme court and district court judges are members for the duration of their retirement. Vacancies on the Judicial Council are filled by the authority originally selecting the member.

The chief justice of the North Dakota Supreme Court serves as chairman and the State Court Administrator as executive secretary of the Judicial Council. Under North Dakota law the Judicial Council is required to meet twice a year. These meetings are usually held in June and November. Special meetings, however, may be called by the chairman. While members of the Judicial Council are not compensated for their services, they are reimbursed for expenses incurred in the discharge of their Council duties.

The Judicial Council is authorized by statute to make a continuous study of the judicial system of the state to improve the administration of justice. To fulfill this function it has the authority to hold public hearings, subpoena witnesses and materials, and enforce obedience to its subpoenas. It may recommend improvements in the judicial system to the governor or Legislature and make recommendations regarding rules of practice and procedure to the supreme court. It is also required by law to submit an annual report on the workings of the judicial system to both the governor and the Department of Accounts and Purchases.

To assist it in carrying out its duties and functions the Judicial Council has established several committees. The activities of some of these committees are summarized below.

# Judicial Council Committees

**Special Committee on Judicial Training of the North Dakota Judicial Council**

The North Dakota Supreme Court has set professional development of its judges and judicial support personnel as a high priority. The coordination and development of actual training programs is by staff of the Office of State Court Administrator, under the guidance and approval of the Judicial Council's Special Committee of Judicial Training, chaired by the Honorable Larry Hatch, District Judge.

During 1982, three hundred eighty-nine (389) judges, clerks of court, juvenile court personnel, and court reporters attended seven instate judicial education programs. This includes the Annual Bench/Bar Seminar which provides a unique opportunity for judges and attorneys to get together in a seminar setting.

In addition, thirteen judges, clerks, and juvenile court personnel attended specialized out-of-state judicial educational programs. The highest priority for participation in out-of-state programs is given to newly-elected or appointed full-time judges. Once this objective is met, limited funds are committed to allow judges to attend specialized programs out-of-state approximately every three years.

The reduction in federal funding for judicial training and the fiscal restraints resulting from a general reduction in funds in North Dakota has increased the emphasis on the development and presentation of instate programs. This procedure continues to be the most cost effective way to deliver professional development activities to our judges and support personnel. However, the Training Committee recognizes the instate effort must be complemented by specialty out-of-state programs.

In addition to the regular training programs provided for judges and personnel, a number of other activities in the area of professional development and public information are staffed by personnel from the Office of State Court Administrator. The actual work is conducted under the direction of both ad hoc committees and other standing committees of the Judicial Council.

**General Jurisdiction Judges Benchbook Committee**

In 1982 an ad hoc committee, under the chairmanship of Judge Gerald Glaser, completed work on a benchbook for general jurisdiction judges. This project was financed by the Bremer Foundation. Staff assistance was provided by personnel from the North Central Regional Office of the National Center for State Courts. Not only will this benchbook have direct application for general jurisdiction judges, but with the increase in concurrent jurisdiction and assignment capabilities to our county courts, the manual will also be of assistance to our limited jurisdiction judges.

**Juvenile Procedure Committee**

During 1982, the Juvenile Procedure Committee met in conjunction with the Judicial Council.

In addition to reviewing legislation dealing with the Juvenile Courts, the Committee approved forms to be used on a statewide basis.

Judge Backes, chairman of the Committee, also appointed a task force to examine the staffing needs of the courts. As part of this analysis, a survey was completed by juvenile court personnel which dealt with the time necessary to carry out the functions of juvenile courts. The results of the survey indicated that the time necessary to complete tasks, such as informal adjustments, was fairly standard across the state.

However, there were wide variances in such areas as hours available to provide probation services and the amount of time needed for travel. Such items should be taken into consideration when trying to assess staffing needs.

**Sentencing Guidelines Committee**

The Sentencing Guidelines Committee has spent most of 1982 in developing a format for presenting the sentencing data collected by the committee. It was felt that the volume of sentencing reports was making the system cumbersome and that a more general report would help judges review the ranges of sentences being given out for specific offenses.

# Membership of the North Dakota Judicial Council

## JUSTICES OF THE SUPREME COURT

Ralph J. Erickstad, Chief Justice, Bismarck
Wm. L. Paulson, Justice, Bismarck
Vernon R. Pederson, Justice, Bismarck
Paul M. Sand, Justice, Bismarck
Gerald W. VandeWalle, Justice, Bismarck

## JUDGES OF THE DISTRICT COURTS

### NORTHWEST JUDICIAL DISTRICT

*Wallace D. Berning, Minot
Everett Nels Olson, Minot
Jon R. Kerian, Minot
Wm. M. Beede, Williston
Bert L. Wilson, Williston

### NORTHEAST JUDICIAL DISTRICT

*Douglas B. Heen, Devils Lake
James H. O'Keefe, Grafton
Wm. A. Neumann, Rugby

### NORTHEAST CENTRAL JUDICIAL DISTRICT

*A. C. Bakken, Grand Forks
Kirk Smith, Grand Forks
Joel D. Medd, Grand Forks

### EAST CENTRAL JUDICIAL DISTRICT

*Norman J. Backes, Fargo
John O. Garaas, Fargo
Lawrence A. Leclerc, Fargo
Michael O. McGuire, Fargo

### SOUTHEAST JUDICIAL DISTRICT

*Robert L. Eckert, Wahpeton
M. C. Fredricks, Jamestown
John T. Paulson, Valley City

### SOUTH CENTRAL JUDICIAL DISTRICT

*Benny A. Graff, Bismarck
Gerald G. Glaser, Bismarck
Dennis A. Schneider, Bismarck
Wm. F. Hodny, Mandan
Larry M. Hatch, Linton

### SOUTHWEST JUDICIAL DISTRICT

*Maurice R. Hunke, Dickinson
Lyle G. Stuart, Hettinger
Allan L. Schmalenberger, Dickinson

## JUDGES OF THE COUNTY COURTS WITH INCREASED JURISDICTION

C. James Cieminski, Valley City
Donald M. Cooke, Fargo
Ronald M. Dosch, Devils Lake
Wm. G. Engelter, Mandan
Thomas D. Ewing, Dickinson
Gary A. Holum, Minot
Harold B. Herseth, Jamestown
Frank J. Kosanda, Grand Forks
Samuel D. Krause, Fessenden
Bayard Lewis, Wahpeton
Ronald Hilden, Stanton
Michael Steffan, Minnewaukan
George Margulies, Lisbon
Thomas W. Nielson, LaMoure
Burt L. Riskedahl, Bismarck
Theodore Weisenburger, Grafton
Gordon Thompson, Williston

## JUDGES OF THE COUNTY JUSTICE COURTS

R. C. Heinley, Carrington
Paul T. Crary, Wahalla

## JUDGES OF THE MUNICIPAL COURTS

Robert Brown, Mayville
Daniel Buchanan, Jamestown

## ATTORNEY GENERAL

Robert O. Wefald, Bismarck

## UND SCHOOL OF LAW

Jeremy Davis, Acting Dean, Grand Forks

## MEMBERS OF THE BAR

J. Phillip Johnson, Fargo
Patrick J. Maddock, Grand Forks
Walfrid, B. Hankla, Minot
Charles A. Feste, Fargo
Paul G. Kloster, Dickinson

## JUDGES OF THE COUNTY COURTS WITHOUT INCREASED JURISDICTION

R. M. Lundberg, Washburn
Ross McNea, Bottineau

## RETIRED JUDGES OF THE SUPREME AND DISTRICT COURTS

Emil A. Giese, Siren, Wisc.
Hamilton E. Englert, Valley City
C. F. Kelsch, Mandan
Roy A. Ilvedson, Minot
Eugene A. Burdick, Williston
Wallace E. Warner, Green Valley, AZ
Norbert J. Muggli, Dickinson

## EXECUTIVE SECRETARY

William G. Bohn

**Denotes Presiding Judge*
*68 Members*

# In Memoriam

**Judge Roy K. Redetzke**

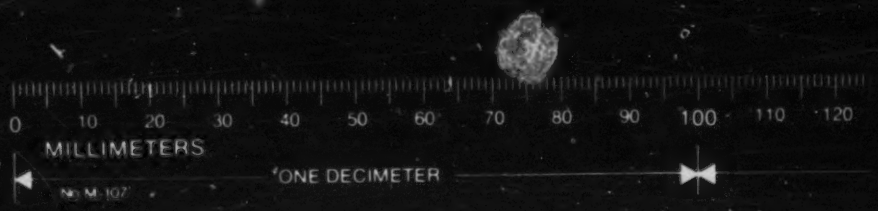
The North Dakota judicial system was saddened by the sudden death of former District Court Judge Roy K. Redetzke on May 11, 1982. Judge Redetzke is survived by his wife, Alice, and their three children.

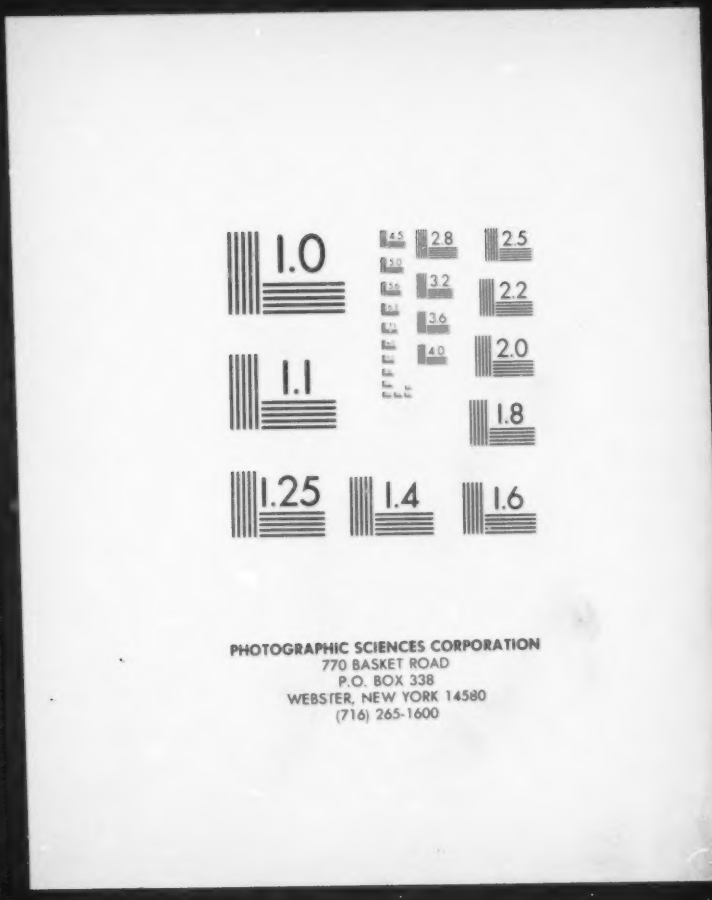
Judge Redetzke, affectionately known as "Red" by his friends, began his distinguished legal career in 1927. After graduating from the University of North Dakota School of Law, he moved to Fargo and began practicing law with the late B.F. Spalding. In 1932 Judge Redetzke accepted a position as an assistant state's attorney for Cass County. For the next sixteen years he alternated between private practice and working with the state's attorney on special projects. He also served as a special assistant United States Attorney for North Dakota from 1936 to 1940. He returned to private practice in 1948.

Governor John E. Davis appointed Judge Redetzke to the District Court bench in 1958 to fill the unexpired term of Judge John C. Pollock. Following this appointment, Judge Redetzke was elected to three consecutive terms — 1960, 1966, and 1972 — as a district court judge for the First Judicial District, now reconstituted as the East Central Judicial District. During his twenty years on the bench the caseload in his district quadrupled.

Judge Redetzke retired from the district court on January 2, 1978. One day following his retirement, however, he was appointed as an interim district court judge by the North Dakota Supreme Court to assist the district in managing its rapidly growing caseload. He served in that capacity until leaving North Dakota for Eugene, Oreon in May, 1979.

Shortly before his death the East Central Judicial District honored Judge Redetzke by dedicating one of the courtrooms in the new addition of the Cass County Courthouse to him. It was a tribute reflecting the high esteem in which Judge Redetzke was held by all who knew him.

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